HOUSE OF REPRESENTATIVES—*Monday, June 24, 1985*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, *June 20, 1985.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, June 24, 1985.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Reverend Edward G. Latch, D.D., L.H.D., former Chaplain of the U.S. House of Representatives, offered the following prayer:

The Lord will give strength to His people; the Lord will bless His people with peace.—Psalm 29:11.

O God, our Father, who is acquainted with all our ways and who loves us in spite of our shortcomings, we pause in Your presence acknowledging our dependence upon You and offering unto You once again the devotion of our hearts. Confronting problems too difficult for us to solve and face to face with fears that frustrate us, we come to You for insight to see clearly the way we should take and for strength to do what we ought to do for the good of our Nation.

May the blessing of Your Spirit rest upon our President, our Speaker, these men and women called to lead our country in a day like this and upon all who work with them and for them. By Your Spirit may they lead our people in right paths, by just ways and along the solid road that ultimately brings us to an honorable peace, an enduring good will and a willingness to work for the welfare of all mankind.

Abide with us this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 159. Joint resolution commemorating the 75th anniversary of the Boy Scouts of America.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 47. An act to provide for the minting of coins in commemoration of the centennial of the Statue of Liberty; and

H.R. 2577. An act making supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2577) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. LAXALT, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. MATTINGLY, Mr. SPECTER, Mr. STENNIS, Mr. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, and Mr. LAUTENBERG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 822. An act to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986;

S.J. Res. 111. Joint resolution to designate the month of October 1985 as "National Spina Bifida Month"; and

S.J. Res. 122. Joint resolution to authorize the President to proclaim the last Friday of April 1986 as "National Arbor Day."

The message also announced that pursuant to the provisions of Public Law 98-473, the President pro tempore appoints Mr. KASTEN and Mr. DECONCINI as members of the Commission on the Ukraine Famine.

REQUEST FOR CONCURRENCE IN SENATE AMENDMENTS TO H.R. 47, STATUE OF LIBERTY-ELLIS ISLAND COMMEMORATIVE COIN ACT

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 47) entitled "An act to provide for the minting of coins in commemoration of the centennial of the Statue of Liberty," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

TITLE I—STATUE OF LIBERTY-ELLIS ISLAND COMMEMORATIVE COINS

SHORT TITLE

SEC. 401. This Act may be cited as the "Statue of Liberty-Ellis Island Commemorative Coin Act".

COIN SPECIFICATIONS

SEC. 102. (a)(1) The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 500,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) The design of such five dollar coins shall be emblematic of the centennial of the Statue of Liberty. On each such five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1986", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b)(1) The Secretary shall issue not more than ten million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) The design of such dollar coins shall be emblematic of the use of Ellis Island as a gateway for immigrants to America. On each such dollar coin there shall be a designation of the value of the coin, an inscription of the year "1986", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c)(1) The Secretary shall issue not more than twenty-five million half dollar coins which shall weigh 11.34 grams, have a diameter of 1.205 inches, and shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) The design of such half dollar coins shall be emblematic of the contributions of immigrants to America. On each such half dollar coin there shall be a designation of the value of the coin, an inscription of the year "1986", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SOURCES OF BULLION

SEC. 103. (a) The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(b) The Secretary shall obtain gold for the coins minted under this title pursuant to

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the authority of the Secretary under existing law.

DESIGN OF THE COINS

SEC. 104. The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Chairman of the Statue of Liberty-Ellis Island Foundation, Inc. and the Chairman of the Commission of Fine Arts.

SALE OF THE COINS

SEC. 105. (a) Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $2 for the half dollar coins.

ISSUANCE OF THE COINS

SEC. 106. (a) The gold coins authorized by this title shall be issued in uncirculated and proof qualities and shall be struck at no more than one facility of the United States Mint.

(b) The one dollar and half dollar coins authorized under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) Notwithstanding any other provision of law, the Secretary may issue the coins minted under this title beginning October 1, 1985.

(d) No coins shall be minted under this title after December 31, 1986.

GENERAL WAIVER OF PROCUREMENT REGULATIONS

SEC. 107. No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

DISTRIBUTION OF SURCHARGES

SEC. 108. All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary of the Statue of Liberty-Ellis Island Foundation, Inc. (hereinafter in this title referred to as the "Foundation"). Such amounts shall be used to restore and renovate the Statue of Liberty and the facilities used for immigration at Ellis Island and to establish an endowment in an amount deemed sufficient by the Foundation, in consultation with the Secretary of the Interior, to ensure the continued upkeep and maintenance of these monuments.

AUDITS

SEC. 109. The Comptroller General shall have the right to examine such books, records, documents, and other data of the Foundation as may be related to the expenditure of amounts paid, and the management and expenditures of the endowment established, under section 108.

COINAGE PROFIT FUND

SEC. 110. Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

FINANCIAL ASSURANCES

SEC. 111. (a) The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this title shall result in no net cost to the United States Government.

(b) No coin shall be issued under this title unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

TITLE II—LIBERTY COINS

SHORT TITLE

SEC. 201. This title may be cited as the "Liberty Coin Act".

MINTING OF SILVER COINS

SEC. 202. Section 5112 of title 31, United States Code, is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following new subsections:

"(e) Notwithstanding any other provisions of law, the Secretary shall mint and issue, in quantities sufficient to meet public demand, coins which—

"(1) are 40.6 millimeters in diameter and weigh 31.103 grams;

"(2) contain .999 fine silver;

"(3) have a design—

"(A) symbolic of Liberty on the obverse side; and

"(B) of an eagle on the reverse side;

"(4) have inscriptions of the year of minting or issuance, and the words 'Liberty', 'In God We Trust', 'United States of America', '1 Oz. Fine Silver', 'E Pluribus Unum', and 'One Dollar'; and

"(5) have reeded edges.

"(f) The Secretary shall sell the coins minted under subsection (e) to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distribution such coins (including labor, materials, dyes, use of machinery, and overhead expenses).

"(g) For purposes of section 5132(a)(1) of this title, all coins minted under subsection (e) of this section shall be considered to be numismatic items.

"(h) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.".

PURCHASE OF SILVER

SEC. 203. Section 5116(b) of title 31, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out "The Secretary shall" and inserting in lieu thereof "The Secretary may";

(2) by striking out the second sentence of paragraph (1); and

(3) by inserting after the first sentence of paragraph (2) the following new sentence: "The Secretary shall obtain the silver for the coins authorized under section 5112(e) of this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).".

CONFORMING AMENDMENT

SEC. 204. The third sentence of section 5132(a)(1) of title 31, United States Code, is amended by inserting "minted under section 5112(a) of this title" after "proof coins".

EFFECTIVE DATE

SEC. 205. This title shall take effect on October 1, 1985, except that no coins may be issued or sold under subsection (e) of section 5112 of title 31, United States Code, before September 1, 1986, or before the date on which all coins minted under title I of this Act have been sold, whichever is earlier.

Amend the title so as to read "An Act to authorize the minting of coins in commemoration of the centennial of the Statue of Liberty and to authorize the issuance of Liberty Coins.".

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

Mr. LEWIS of California. Mr. Speaker, reserving the right to object, I would like to enter into a colloquy between the gentleman from Illinois and myself.

Mr. ANNUNZIO. Mr. Speaker, I would be glad to enter into a colloquy if the gentleman will yield.

Mr. LEWIS of California. Mr. Speaker, the gentleman from Illinois and I have communicated a good deal about the coin process over the last year or so. Frankly, I have in no way any objection to this portion of the bill that involves a coin to help fund the reconstruction and refurbishing of the Statue of Liberty.

I do have some serious concern, however, about a provision added to the bill on the Senate side that involves a silver coin. Will the gentleman explain that to the House?

Mr. ANNUNZIO. The addition on the part of the Senate is for a silver bullion coin, one coin.

Mr. LEWIS of California. It seems to me that somewhere on the Senate side there was some confusion over what might happen if the gentleman's bill was to be amended. It was my understanding that while there might be a silver coin added, if that were going to occur, there would be some coordination to also add a gold coin that would compete effectively with the Krugerrand.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield, the bill came

from the Senate and I had no objection to the silver coin, and if it had come from the Senate with the gold coin, I would have had no objection.

I know of the gentleman's deep interest in a gold coin to replace the Krugerrand. I want to assure the gentleman from California and I want to make a public statement that when we pass this legislation today, I will immediately call for hearings on the gold coin. The Senators on the Senate side know that. I am not against a gold coin. In fact, I am for a gold coin, but right now we are in a dilemma. This bill was supposed to be passed a month ago, but because of the parliamentary situation in the Senate, we are running about a month late.

The coins to finance the rehabilitation of Ellis Island and the refurbishing of the Statue of Liberty should have been minted by July 4. We need to raise $135 million to restore the Statue of Liberty and Ellis Island. Time is running out.

So I would be deeply grateful to the gentleman if he would withdraw his reservation of objection today. He has my complete assurance that we will hold very early hearings, and that I will try to get them organized as soon as possible. I am for a gold coin. I expected the bill from the Senate to have a gold coin in it, but it did not come back that way. In the meantime, I do not want to hold up this project to the detriment of the Members and many of our American citizens who are waiting for the Statue of Liberty coins so that we can get it completed.

Mr. LEWIS of California. Mr. Speaker, I must say to the gentleman that I have the same sense of urgency that he has relative to the Statue of Liberty. Indeed I myself am anxious to buy my first set of coins.

Having said that, I appreciate the gentleman's support in moving forward for a gold coin. I must say to the gentleman that my reservation at the moment is more specifically directed toward the Senate admendment. The gentleman has been more than cooperative, and I know his word is good. I would, however, want to send a very clear message to the Senate about the surprising nature of their amendment.

So, Mr. Speaker, for the moment I am constrained to object.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will withhold his objection, whatever his conflicts are with the Senate, I would ask him, please, not to take it out on the American people who are waiting for this coin. I say to the gentleman, let us continue to work together, and if there is a way that I can help him with the Senate, I will. The Senate already knows that I have made a commitment to the gentleman, and that I am going to go ahead with the gold coin. But I am committed to the American people and to the Statue of Liberty-Ellis Island Foundation that President Reagan has appointed. It is waiting for this program. We want to get these coins designed. We want to get the designs on the dies so we can start minting and selling coins.

□ 1210

The gentleman from California, I know, will have the gratitude of millions and millions of Americans if the gentleman will not object.

I know what the gentleman's concern is with the Senate, but we cannot be responsible for what the Senate does. We in the House are the representatives of the people. We have to move ahead. I am asking the gentleman to move ahead with the House Members, the Banking Committee, all the Republican leadership, all the Republican Members, all the Democratic leadership, and the President of the United States. We want to have a celebration on July 4 for this project.

Really and truly, what can I say to the gentleman? I want the gentleman's help.

Mr. LEWIS of California. I must say to the gentleman that one of the elements of his service here that I admire the most is the gentleman's word.

I must say that I thought I had similar commitments on the Senate side.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield further, do not hold me responsible for the Senate's word. I want to be held responsible for my word and I have always kept my word to the gentleman and I intend to keep it.

Mr. LEWIS of California. Mr. Speaker, I would love to discuss this further in private with the gentleman; but for the moment, I am constrained to object.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PROFITEERING ON FOOD AID TO ETHIOPIA

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, today this Member intends to inform the House of some unsettling facts about what is being done with our food aid to Ethiopia.

In an article from the Christian Science Monitor of May 20, 1985, readers are informed that the Ethiopian Government is making an estimated $28 million per year in hard currency by levying some of the highest port fees in all of Africa on each ton of grain that is donated by the United States and other nations. The United States pays the Ethiopian Government $12.60 in port fees for every ton of donated grain. Since December, we have shipped 400,000 tons of grain. Our total port fees amount to more than $5 million. In the best of worlds, the United States could hope that these fees were being turned into humanitarian assistance on the part of the Ethiopian Government. This Member fears, sadly, that this is not the case. We surely should ask for the application of those collected duties to humanitarian aid.

The United States and others expect to send 1.2 million tons of grain to Ethiopia this year. The money generated by the collection of port fees will come to some $15 million—a substantial fund that could be well used for medicines, trucks, or blankets.

Ethiopian officials demand steep import duties on donated transport as well. According to the May 20, 1985, edition of the Christian Science Monitor, donated four-wheel drive Land Rovers are sitting outside customs sheds months after their arrival, awaiting the payment duties.

Few observers are surprised that Ethiopia is generating hard currency from donated grain and equipment. It is the magnitude of the profit that leaves some of these observers surprised. This is aid, freely given to feed a starving people whose own Government cannot, and in some cases selectively will not, help them on its own. Other observers point out that food aid has become Ethiopia's single largest earner of "invisibles" or intangible earnings.

Despite this profiteering, millions of people are in fact being helped, and this is what we need to keep in mind. The estimates of the numbers of people who are being helped range from 3.5 to 5.3 million. World donors can be proud of these lifesaving efforts. Is Ethiopia proud of its profiteering on the condition of its starving people?

LITTLE LEAGUERS AND D.C. BASEBALL

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I have just come from the Capitol steps, where I met with a group of Little League baseball players, who are marching from Pennsylvania Avenue to the R.F.K. Stadium to show their excitement and strong support for the return of baseball to Washington, DC. The Little Leaguers are kicking off a week-long series of events, sponsored by the DC Baseball Commission, in support of the return of a major league team to Washington.

Seventy-five of my colleagues share this excitement and belief that baseball—so much a part of the fabric of American life—should also be part of daily life in Washington, DC. They have joined me in sending a letter to

Baseball Commissioner Peter W. Ueberroth urging him to tell major league team owners of our deep commitment to the placement of an expansion franchise in the Nation's Capital.

Many of us grew up with major league baseball and we believe that the people of this area—especially our young people, whose lives can be enriched growing up with baseball's sights and sounds—deserve a team.

I believe that the home runs in this town too often come from a President scoring a political triumph or from a committee chairman steering through an important legislative victory. Many of my colleagues and I miss those real home runs, and hope to see baseball back in the District Columbia.

CONGRATULATIONS TO ATLANTA, GA, FIRST BAPTIST CHURCH SUNLIGHT GROUP

(Mr. SWINDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWINDALL. Mr. Speaker, I am privileged today to introduce to my colleagues, Sunlight, a singing group from the First Baptist Church in Atlanta.

The group, which is in the House today, is presently touring the Southeast and was kind enough to make a special trip to Washington to present a 30-minute concert on the southeast steps of the Capitol this morning from 11 to 11:30 a.m.

Those who gathered to hear them this morning can understand why I take such tremendous pride in hosting this inspirational and committed group of young people.

In closing, I want to thank each of them for blessing us with their performance. I know my colleagues join me in welcoming Sunlight to our Nation's Capital and extending an open invitation to come again, anytime.

May God bless each member of Sunlight in a very special way.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIKORSKI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the question of passing the bill and on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 25, 1985.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER pro tempore. This is the District of Columbia Day. The Chair recognizes the gentleman from the District of Columbia [Mr. FAUNTROY].

DISTRICT OF COLUMBIA STADIUM ACT AMENDMENTS

Mr. FAUNTROY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2776) to amend the District of Columbia Stadium Act of 1957 to direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium to the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF STADIUM

Section 7 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-326) is amended—

(1) by inserting "(a)" after "SEC. 7."; and

(2) by inserting after subsection (a) the following new subsections:

"(b) The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') shall convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the stadium constructed under this Act.

"(c) The conveyance of real property under subsection (b) shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States and that the property will be used only—

"(1) for stadium purposes;

(2) for providing recreational facilities, open space, or public outdoor recreation opportunities;

"(3) for such other purposes for which the property was used prior to June 1, 1985; and

"(4) for such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

"(d)(1) The instrument of conveyance referred to in subsection (c) shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument shall revert to the United States if—

"(A) the terms and conditions referred to in subsection (c) have not been complied with, as determined by the Secretary, and

"(B) such noncompliance has not been corrected within ninety days after written notice of such noncompliance has been received by the Mayor of the District of Columbia.

Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c).

"(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) before the expiration of ninety days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion under paragraph (1) of this subsection.

"(3) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. 1, 2-4), and other provisions of law generally applicable to units of the national park system.".

SEC. 2. TECHNICAL AMENDMENT.

Section 11 of the District of Columbia Stadium Act of 1957 (D.C. Code, sec. 2-330) is amended by inserting "(including any area designated A, B, C, D, or E on the revised map entitled 'Map to Designate Transfer of Stadium and Parking Lots to the District', prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated March 1985 (NPS drawing number 831/87284))," after "property of any kind".

Mr. FAUNTROY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill will transfer title of R.F.K. Stadium from the U.S. National Park Service to the Government of the District of Columbia. The city has paid most of the capital costs of the construction and operation of the stadium. The bill before us, the stadium-transfer bill, is the result of agreements reached in 1977 by a Presidential task force on the District of Columbia. This was a bipartisan task force that was chaired by the Vice President and included Members of both Houses of Congress, the Mayor and Federal Representatives. It should be noted that the stadium was constructed on the initiative of the Federal Government in 1964. At that time the taxpayers of the District had no voice in the matter nonetheless they have paid more than two-thirds of all costs.

There were three parts to the 1977 agreement regarding the stadium:

First, that the $19.8 million needed to redeem the stadium bonds would be paid half by the Federal Government and half by the District.

Second, the District of Columbia government would absorb the $12.8 million which it had paid for interest payments on the bonds.

And third, that title to the stadium and associated land would be transferred to the District upon redemption of the bonds. In addition, the District had already paid all operating losses since the stadium was built in 1964.

In accordance with this agreement, during the last Congress the committee reported a similar stadium-transfer bill and the House passed it by unanimous voice vote on July 25, 1983. The Senate did not act on the measure last Congress.

It is merely coincidental that this bill comes before the House District Committee and now the House at a time when the city is gearing up to bid for a baseball team. I believe most members of the committee wish the city well in it's endeavor; however, I stress that the origin of this bill is a Federal commitment made in 1977 to transfer the title of the stadium.

Mr. Speaker, H.R. 2776 was sequentially referred to the Committee on Interior and Insular Affairs on June 18, 1985. It was discharged by that committee on June 19, 1985, without action.

Mr. Speaker, H.R. 2776 is the result of a series of changes to legislation first proposed during the last Congress and the 99th Congress. The changes were proposed primarily by the U.S. Department of the Interior. Among the changes is a provision which insures that the stadium will always remain in the public domain by providing that the stadium will revert back to the United States if it is used for any purpose other than detailed in the legislation.

The bill also ensures that the park area in front of the stadium shall be maintained in its current state.

All the members of the Committee on the District of Columbia support this legislation.

Mr. Speaker, I urge support of H.R. 2776.

□ 1220

Mr. PARRIS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would like to compliment and thank the members of the House District of Columbia Committee for their diligent work that brings this legislation to the floor of the House today.

My colleagues from the District of Columbia, Mr. FAUNTROY, has give the House a thorough description of H.R. 2776 as reported by the committee, and has more than adequately covered the finer points of the legislation. The minority fully supports this bill. It is my hope that the House will pass it straight away.

Let me take my time, therefore, Mr. Speaker, this morning to address a pertinent but modestly ancillary consideration of this initiative which was alluded to by my friend from the District of Columbia, and that is baseball in the District of Columbia.

While it is coincidental that this bill comes before us at a time when Washington is preparing to bid for a baseball team, this transfer would, in my judgment, the transfer of this sports facility in this city would, in my judgment, aid substantially in the efforts to attract a major league baseball team into Washington, DC.

On that subject, Mr. Speaker, my staff is in the process of drafting, and I am considering the introduction in the near future of legislation that would remove the antitrust exemption for major league baseball. And I submit, Mr. Speaker, we might just get the attention of the owners if that legislation were seriously considered by the Congress of the United States. For years there has been a significant effort made to bring a major league baseball team to the Nation's Capitol. We have come close, we have never been successful. This is particularly unusual in light of the fact that statistically Washington is rated No. 7 among the Nation's metropolitan areas and yet is not home to one of the 34 major league baseball teams in the Nation.

Washington, DC, is not an isolated example. The 1980's have been dominated by concerns over franchise movements. Municipalities that want teams to move in have been encouraging team owners to challenge the assumed authority of leagues to control franchise locations. A Federal court of appeals recently ruled that league restrictions on team relocation violated the antitrust laws. The various sports leagues and cities who do not want to lose their teams have been trying to get relief on Capitol Hill. They are opposed by cities who hope to benefit by teams who want to relocate.

With the exception of baseball, all sports leagues have been found subject to Federal antitrust laws. Baseball's antitrust exemption was initially granted in 1922 and was reiterated in 1972 when the Supreme Court conceded its 1922 decision was an aberration, and unrealistic, inconsistent and illogical. The courts upheld the antitrust immunity because baseball has relied on it for 50 years and Congress failed to act to take it away.

The applicability of antitrust laws to baseball would make a difference in this or any other city getting or retaining a franchise. A combination of a prevalent sellers' market and league rules that enforce and take advantage of franchise scarcity has created a situation where we will always have franchise instability. The control of the number and location of franchises has given the owners leverage to obtain concessions from those cities who want a franchise as well as from those cities who do not want to lose an existing team.

The leagues' conscious control of the number of franchises is part of the reason why the demand by communities for sports franchises outstrips their supply.

This imbalance of supply and demand leads cities to escalate their offers of publicly funded inducements in an attempt to outbid one another for franchises. This increases the public subsidy required to attract and retain a sports franchise and presumably contributes to the instability of franchise location. That is why Washington, DC, is finding itself pitted against a host of other cities who desire a major league baseball team at this time. The league and the owners can just sit back and let us all fight it out until some city comes up with the sweetest deal.

The SPEAKER pro tempore. The time of the gentleman from Virginia [Mr. PARRIS] has expired.

(By unanimous consent Mr. PARRIS was allowed to proceed for 3 additional minutes.)

Mr. PARRIS. Mr. Speaker, there are quite a few significant advantages for having a professional sports team and cities go to great lengths to get one. Teams generate revenue and jobs, contribute to civic pride and often enhance local economic development. They are a benefit. Cities will use public funds or resort to the courts to keep teams from leaving. When Seattle lost its team in the early 1970's it filed an antitrust suit and was eventually awarded an expansion team in 1977. Milwaukee also filed an antitrust suit when its team moved. They lost their suit but put on enough pressure that they forced the transfer of another team to Seattle in 1969.

Past experience would indicate that due primarily to the antitrust exemption, cities who want to keep teams or get a new one might best obtain their goal through court action or intense public and political pressure. That situation alone would seem to be enough justification for eliminating the exemption.

Mr. Speaker, the league controls the movement of existing franchises to cities without teams. A team wishing to relocate must gain the approval of a substantial majority of other teams—baseball for instance, requires a three-fourths majority. The entrance of new franchises is controlled by the established teams which require substantial entrance fees and dictate the location of the new team.

The lower court decision in the Milwaukee Braves litigation in Wisconsin held that baseball's transfer of the franchise to Atlanta without issuing Milwaukee a replacement constituted a violation of State antitrust law. The Wisconsin Supreme Court reversed that decision on the ground that Federal law preempted the States jurisdiction in interstate antitrust matters. Another example is found in the threat of antitrust litigation that aided in the retention of a franchise in Buffalo and as I alluded earlier, regained one in Seattle. In addition, in congressional hearings held in 1976,

Justice Department officials testified that one of the beneficial effects of removing baseball's exemptions could be the lowering of entry barriers for potential competitors by offering for the first time in over half a century a measure of protection against anticompetitive practices by the established leagues.

Mr. Speaker, rest assured that I and I hope many of my colleagues will continue to research and monitor this situation carefully as it unfolds in the light of history.

□ 1230

The administration supports the passage of this bill, Mr. Speaker.

I hope it will be the pleasure of the House to adopt it.

Mr. Speaker, I yield back the balance of my time.

Mr. FAUNTROY. Mr. Speaker, I move to strike the requisite number of words.

The SPEAKER pro tempore. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. FAUNTROY. Mr. Speaker, I would like to compliment the gentleman from Virginia [Mr. PARRIS] and thank him for his leadership and every Member of the House District Committee for the diligent work that brings this legislation to the floor today. As I indicated, while it is coincidental that the District is seeking a team at this very time, I do want to associate myself with the remarks of the gentleman from Virginia [Mr. PARRIS].

Next month the House Members and Members of the Senate will engage again in the legendary Democratic-Republican baseball game. It has been years since we played that game in a major stadium like the RFK Stadium. Quite frankly, it is time for us to play it at RFK. I am tired of having to go over to Baltimore to get my uniform to play as first baseman.

I am sure SILVIO CONTE on the other side and Mr. BILL CHAPPELL on this side will be very happy with the results of the efforts that we make in the next few weeks and months to secure a team.

Mr. Speaker, unaccustomed as I am to building pressure on people through legislation, I am tempted to join the militant gentleman from Virginia [Mr. PARRIS] in supporting a measure that would withdraw the antitrust agreement from baseball and, after his eloquent argument, I am going to get out of character and support this pressure upon organized baseball to give us a team here in our Nation's Capital.

● Mr. SEIBERLING. Mr. Speaker, I rise in support of H.R. 2776, a bill to amend the District of Columbia Stadium Act of 1957. The bill would direct the Secretary of the Interior to convey title to the Robert F. Kennedy Memorial Stadium in Washington, DC, from the United States to the government of the District of Columbia.

Similar legislation passed the House during the 98th Congress. At that time, I expressed concern to the House District Committee that, since the land to be conveyed was under the jurisdiction of the National Park Service, the Interior Committee's Subcommittee on Public Lands and National Parks, which I then chaired, had an interest in the legislation. We were especially concerned to assure that only the most essential areas be conveyed, that the conveyance be conditioned to assure that the lands not be converted to private uses or developed in ways incompatible with public park and recreational land, and that an enforceable reverter clause be included to ensure that these conditions would be met.

During the 98th Congress, and again during this Congress, Chairman DELLUMS of the House District Committee, Chairman FAUNTROY of the Subcommittee on Fiscal Affairs and Health, and I had extensive discussions on this matter. I believe that the bill before us, H.R. 2776, does an excellent job of taking care of these various concerns and that it is now supported not only by the District government but also by the National Park Service.

Before closing, I would like to commend Chairman BRUCE VENTO of the National Parks and Recreation, Mr. DELLUMS, Mr. FAUNTROY, and Mr. MCKINNEY for their hard work on this legislation, but also members of the staff, including Julius Hobson and John Gnorski of the District Committee's staff and Dale Crane and Loretta Neumann of the Interior Committee's staff.

I am pleased to support this legislation and urge all Members of the House to support it as well.●

Mr. FAUNTROY. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

FEDERAL ELECTION COMMISSION AUTHORIZATION, FISCAL YEAR 1986

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1532) to authorize appropriations for the Federal Election Commission for fiscal year 1986, as amended.

The Clerk read as follows:

H.R. 1532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1978," and by inserting after "1981" the following: ", and $12,745,000 for the fiscal year ending September 30, 1986".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1532 is the authorization for the Federal Election Commission for fiscal year 1986.

As reported from the Committee on House Administration, the bill authorizes a total of $12,745,000 for the upcoming year. This amount is $335,000 less than the Commission request. Furthermore, it is less than was approved by OMB, and it is less than the Commission's 1985 appropriation.

Last year, Mr. Speaker, the Commission received an appropriation of $12,900,000, which included in it some one-time expenses. In particular, those were to cover the costs of the Commission's move to new office space, and the costs of running two parallel ADP systems during the transition from one contractor to another.

At that time, there was some concern that the extra sums provided to the Commission might somehow be transformed into the Commission's base-line funding. I am pleased to report, however, that such is not the case. The Congress received a fair and honest budget request from the Commission that clearly subtracted those one-time expenses, and just as clearly added any proposed new budget items.

The base-line that the Commission requested for fiscal 1986 was $12,605,000. In addition, the Commission asked for money for several items, of which the committee has authorized full or partial funding for four.

First, last year this Congress passed—and the President signed—new legislation calling for better accessibility for elderly and handicapped voters at registration and polling sites around the country. The legislation imposed certain duties on the Federal Election Commission, and the Commission quite reasonably asked for funds to cover activities that will be associated with those duties. The committee pro-

poses to authorize the funds requested.

I might also add, Mr. Speaker, that the committee is pleased that the Commission thoroughly understands the intent of Congress in passing that legislation. The intent was that improved voting accessibility should be a cooperative effort between the States and the Federal Government. All laws have carrots and sticks, but we were really emphasizing the carrot on this one.

Down the road, this committee will take a look and see if there is any reason to enlarge the stick, but we had a lot of cooperation from election officials across the country in developing the law and it is our intent to work with them—not to pound on them—to achieve the goals in the law.

It is clear that so far the Commission understands its role as the facilitator rather than the enforcer of compliance, and we are optimistic that they will continue to serve in that role.

The second item in the budget request was for new equipment to be used primarily in the Commission's Information Office. The present equipment is outdated and inadequate. The House Administration Committee has always felt that public disclosure of campaign data is a top priority among the duties of the Commission, and has authorized purchase of the necessary equipment.

Third, the Commission requested funds for its Regulations and Policy Program, in part for a review and update of the Commission's present regulations. In the interest of economy, the committee proposes to authorize only a fraction of the amount requested by the Commission.

The committee certainly has provided no new regulatory authority to the Commission, but we do feel that amending its regulations to reflect recent advisory opinions and court decisions is a worthwhile project for the agency to pursue. Therefore, we have provided a portion of the funds requested.

Finally, last year the Commission began a pilot project to test the feasibility of providing remote access to the Commission data base of disclosure information. The offices of several secretaries of State around the country were provided with direct computer links to the FEC disclosure base.

Preliminary results from the pilot project indicate that it has been favorably received in those States that are presently participating, and others would like to join. Although it is not possible at this time to provide sufficient funds to allow all interested States to join in the upcoming fiscal year, the committee proposes to authorize a small amount of money to allow the project to continue, gradually adding additional States.

There were other amounts requested by the Commission, Mr. Speaker, totaling several hundred thousand dollars. Some of them have considerable merit, but the committee simply felt they could not be adequately justified at this time. This committee is well aware of the budget constraints we face, and has sought to hold the line firmly here, as it has on the other budgetary items for which it is responsible.

I would just conclude, Mr. Speaker, by noting that the Commission has a large and growing work load. During 1984, which included the extra duties a Presidential election year brings, the Commission—among other things—processed tens of thousands of campaign documents, handled tens of thousands of people visiting the Public Records Office, provided nearly 100,000 printouts of campaign finance information to public requestors, and opened close to 300 compliance cases.

By way of comparison: In 1980 the Commission handled just over 80,000 total information requests; in 1984, there were more than 130,000 such requests. During that same period of time, both the number of political action committees and the amount of campaign spending also increased substantially. And yet, the Commission has continuosly operated on a tight budget and actually has fewer staff now—245—than the 270 that it had in 1980.

Mr. Speaker, this is a careful, spartan budget for a small Commission with a big job to do.

I urge all my colleagues to support it fully.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I doubt that for at least 18 years the Federal Elections Commission will pay much attention to William Harrison Lindon, a new citizen of Orlando, FL, but since he made Ruthy and me grandparents for the first time yesterday morning, I feel compelled to announce his arrival.

If that is the good news, the bad news is that we have H.R. 1532 before us, the authorization of the Federal Elections Commission.

Mr. Speaker, I rise in favor of H.R. 1532, as amended, the Federal Election Commission authorization for fiscal year 1986.

The Commission started this budget cycle with a request to the Office of Management and Budget for $13,080,000. OMB calculated the Commission's fiscal year 1986 base level budget to be $12,756,000. This would enable the Commission to maintain a level of funding sufficient to maintain their current activities. However, the OMB actual recommendation was $12,433,000. This figure represents the base level minus the 5 percent reduction in personnel salaries.

The Commission calculated their base level funding at $12.6 million. The House Administration Committee added $140,000 to the base for their recommendation of $12,745,000 for fiscal year 1986.

The additional moneys are to expand their remote access project ($33,000); new mailing, folding and stuffing equipment for the press office ($35,000); increased personnel in the Office of General Counsel ($22,000); and $50,000 for the implementation of the Voting Accessibility for the Elderly and Handicapped Act.

Mr. Speaker, this authorization is $155,000 less than the Commission received last fiscal year. I believe it is reasonable and responsible given our current budget crisis and would urge its adoption.

Mr. Speaker, there are a number of speakers on my side who will seek to defeat this bill on suspension for a variety of reasons; probably all of them valid.

It would be nice if we could bring this bill up under the regular order in an open rule; I think all the Members of this body understand the difficulty of getting scheduled. It is important in my judgment to have an authorization passed before we begin the appropriations process, and that is right around the corner.

This is a fairly routine bill, and I believe that it should be handled as routine. If any Member seriously believes we should not have an Elections Commission, if we should get rid of the single disclosure agency about elections, then that Member should vote against it.

Otherwise, since it costs less than it cost us last year, I encourage thoughtful Members to vote in its support.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair, on behalf of the House, congratulates the gentleman from Minnesota.

Mr. FRENZEL. I thank the Chair, and regret that the new arrival is not a citizen of the State of Minnesota.

The SPEAKER pro tempore. As we all do.

Mr. FRENZEL. Mr. Speaker, I now yield 2 minutes to the distinguished gentleman from Georgia [Mr. SWINDALL].

Mr. SWINDALL. Mr. Speaker, the changes proposed in the Federal Register, April 17, 1985, by the Federal Election Commission in regulations governing limits on contributions by persons and multicandidate political committees contradict congressional intent and clearly exceed the Commission's authority.

The proposal, to tie contribution limits to the net debts of a campaign, clearly would affect statutory contribution limits. Under the proposed rule, contributions for primary and general elections if made after the date of the election, and I quote "may be made only to the extent there are net debts outstanding from such election or may be designated for a different election."

The law itself provides no such limits on contributions. Instead, it allows specific contributions for a primary election, separate specific limits for a general election, and a third specific limit in the case of a runoff election, with an aggregate annual contribution limit for individuals of $25,000.

Because the proposed rule affects statutory campaign contribution limits, I believe that there is no question that it is beyond the scope of the Commission's authority. Further, the Senate has previously considered the possibility that a campaign might have more than sufficient funds to "reasonably defray expenses," and it had chosen not to tie contribution limits to a campaign's net debt posture. I believe that with this proposed regulation, the FEC attempts to circumvent congressional intent.

Soon the House will debate whether to reauthorize funds for the FEC to continue operating during fiscal year 1986. It is my hope that this issue will be debated under an open rule in order that we may have a full and open discussion of the FEC's administration of our Federal election laws.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, when this legislation was adopted in 1973, my greatest concern was that disclosure of contributions was important, and that a knowledgeable electorate was a desirable principle in public campaign financing, but I was concerned that FEC must be sensitive to first amendment rights, and I am constrained to point out one aspect of this bill this morning that gives me cause in that area. It has to do with the aggregation of multicandidate contributions.

For the purpose of contribution limitation, the FEC recently proposed to "clarify" aggregation of contributions, requiring a contributor to aggregate his contributions to a specific candidate with those he makes to a multicandidate committee which may support the same candidate. This requirement would come into effect when the multicandidate committee makes representations that a "substantial portion" of the contribution would be made to or our behalf of a particular candidate.

What precisely is a "substantial" portion? Is it relative to the total cash flow? Is it a fixed percentage, and if so, what? On one occasion the Commission ruled that mere announcement of the formation of a PAC constituted a "solicitation." You may imagine therefore that we and others who are concerned with the preservation of first amendment rights have reason for concern when anticipating the Commission's definition of the term "substantial" and further, when the Commission proposes to "provide indicia of a contributor's 'knowledge or belief' that a contribution will in turn be contributed to or expended on behalf of a particular candidate."

I remind the Commission that the Supreme Court recently decided that independent expenditures by political committees may not be limited. I am disturbed that the Commission appears by this proposal to attempt to circumvent this Supreme Court decision.

The continued insensitivity of the FEC to first amendment rights warrants full debate of this legislation rather than adopting it without amendments under suspension.

I hope my colleagues would reject this process this morning.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, in 29 States, American workers can be required—as a condition of employment—to contribute financially to a labor organization through compulsory union dues. This compulsory dues money, which workers must pay goes directly into the union treasury. According to Steelabor, the self-proclaimed voice of the United Steel Workers of America, union treasury money "can't go for direct political contributions—but it can do a lot: mailings supporting or opposing candidates, phone banks, precinct visits, voter registration and get-out-the-vote drives, contributions to national, State, or local central COPE's, and it can be used to raise voluntary funds for the USWA political action committee." Recent Federal court decisions have found this to be a violation of workers' first amendment rights. In fact, Federal District Court in Maryland found that 79 percent of the dues collected by a major union were used to fund political activities other than collective bargaining. This basic violation of individual rights—forcing a worker, at threat of firing, to financially contribute to political candidates or causes he may oppose—is an affront to the free and open political system in which we take pride. How many of us would be so bold as to pass legislation requiring our opponents' supporters be forced to contribute to us in order to keep their jobs? Yet that is precisely what takes place now through the use of compulsory dues for politics.

Unfortunately, the Federal Election Commission has failed to promulgate regulations to bring its enforcement of Federal election law in line with the Supreme Court. Mr. Speaker, I urge that H.R. 1532, the bill reauthorizing funds for the Federal Election Commission, be brought to floor under an open rule allowing full and open debate on this threat to first amendment rights.

Mr. FRENZEL. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman from Minnesota for yielding, and I must say that I cannot top his delightful announcement when he began his speech, but the House may be somewhat surprised to hear me say that the main issue in this particular bill is not the amount of money being authorized; that is not the issue, it seems to me, that we are addressing here.

What we are addressing here is the controversies that surround the FEC and whether or not some of those controversies ought not be addressed by this House through the amendment process.

We are not as a result of bringing up this bill under the suspension calendar going to get a chance to address some of those controversies. Let me just raise one.

The problem of union compulsory dues for politics cut across party lines during the 1984 election year. Some who had defended this abuse of workers' rights in the past became its victims. Officials of the AFL-CIO and the National Education Association endorsed Democrat Walter Mondale for President, but who paid for the in-kind political services rendered to Walter Mondale by the NEA and the AFL-CIO union officials?

The answer, because of a loophole in Federal election law, is that these political activities on behalf of Walter Mondale were paid for by union treasury funds, collected as a condition of employment from union members, many of whom supported other Democratic candidates for President.

When the Presidential campaigns of GARY HART and JOHN GLENN and ALAN CRANSTON and Senator HOLLINGS were facing budgetary restrictions, Mr. Mondale's campaign continued to flourish on compulsory dues dollars forced from the pockets of his Democratic opponents' supporters.

In the general elections, more than half of all the union members voted for Republican Ronald Reagan. However, many of these union members had their votes undermined by the use of their compulsory dues on behalf of Walter Mondale.

I hope our Democratic colleagues will realize in just these kinds of cases that their own supporters can be vic-

timized by this injustice, and will join us in support of amendments ordering the FEC to implement Supreme Court decisions in the Ellis case and several others.

□ 1250

The High Court has declared the practice of using compulsory dues for political purposes unconstitutional, and we should wait no longer to put an end to this threat to first amendment freedom.

I would also like to remind my colleagues that the dramatic court breakthroughs of recent years against compulsory union politics have by no means ended the battle to secure for union members the right to support or oppose political causes of their own choosing. Union officials are allowed to collect billions of dollars a year from workers who must pay up or be fired. Ostensibly collected to pay for union representation, massive chunks of this forced-dues bonanza are funneled into the pet political causes of union bosses. In fact, in Beck versus Communication Workers of America, the court found that 79 percent of compulsory union dues collected by CWA union officials was spent on nonbargaining activities such as politics and lobbying for the ERA and the Panama Canal Treaties. In an election year, this compulsory dues money takes the form of in-kind political activities such as mailings, phone banks, precinct visits, or other indirect support for political candidates.

In 1984, this union machine was turned on for Democrat Walter Mondale and was funded through the compulsory contributions of union members who supported candidates other than Mr. Mondale. The main issue here is individual freedom. The politics of even the most powerful special interests should not be funded in violation of individual workers' rights. We should earmark funding under this reauthorization bill for the Federal Election Commission to implement regulations banning this injustice. But we are not going to be able to offer those kinds of amendments if we continue to consider this bill under the Suspension Calendar.

I would suggest that what we do is defeat the bill under suspension, bring it out here under an open rule so that we could address the compulsory dues issue.

There are other kinds of issues. Some Members may want to look at the contribution limitations. Some people around here would like to raise the amounts that people can contribute to compaigns or the PAC's can contribute. Others would like to lower it, thinking that some of this is an abuse. We will not get a chance to address those issues and talk about those kinds of things on the House floor, either, because of the consideration of this bill under the Suspension Calendar.

So let us look beyond the issue of just authorization of money. That is certainly a reasonable amount that is in this bill, even under the Budget Act. But I think that we have got to look at the big issues that the SEC is addressing now through regulations rather than with guidance from Congress because we are not taking the time here on the House floor to look at amendments, to address those controversies and do so in a way that protects the rights of individual citizens and protects particularly the voters of this country.

So I would hope that my colleagues would join me today in defeating the bill under suspension so that we may bring it back here under the amendment process that would permit us to address a number of issues, some raised previously by my colleagues and some raised by me.

Mr. FRENZEL. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, I would like to agree with a number of my colleagues that the costs involved in this authorization bill are not at question. In fact, these costs in relation to previous years are commendable. This is a model for other bills, I would suggest, to come forward before this House of Representatives in this year.

But oftentimes when we have an appropriation bill and Members attempt to deal with substantive issues when an appropriation bill is up, they are accused of and points of order are sustained against them about the question of trying to have authorizing legislation on an appropriation bill.

So the only area in which we can talk about substantive matters, in many ways, is that of an authorization bill. So I hope that Members would not be dissuaded from serious discussion of appropriate issues by amendment in this particular instance by virtue of the fact that the money involved is not excessive. The money involved is not excessive. It limits the appropriation process later on from going above it. And for that, the Members who brought this before this body ought to be commended.

But there are substantial questions that we ought to deal with. Every person who has ever decided in the last number of years that he or she would wish to be in the House of Representatives has been confronted with something known as the FEC. Some have said today that if you want to be a Member, if you seek to be a candidate for membership in the U.S. House of Representatives, the very first thing you should do is hire yourself a lawyer and hire yourself an accountant so that you will not run afoul of the law, a law which is supposed to be administered by the FEC.

And I do not disagree with that, nor do I disagree with the fact that we need to have disclosure. I think it is very appropriate. In fact, I would say it is the most essential thing to the cleansing process that has taken place over the last number of years with respect to the electoral process. At the same time, we have to recognize that the FEC and the idea of the FEC is created within the context of the first amendment of the Constitution, and I would suggest that on decisions made in a number of cases over the last number of years the FEC has not shown an appropriate sensitivity to the workings of the first amendment. And that brings me to why we are here today.

The FEC has brought forth a number of proposed regulations that it seems to me go to the heart of its operations. It goes to the heart of its operations because it seems to me it is overstating or overstepping its bounds in terms of these regulations. It attempts to made decisions which I think are appropriately in the legislative realm; it attempts to made new definitions in terms of contribution; it attempts to delineate new parameters for participation in the electoral process.

A number of these things have been articulated at length by other Members on this floor today, so I shall not go into them at this time. Suffice it to say that these are substantial questions of substantive law that can only be dealt with on the authorization legislation, not the appropriation legislation.

When this legislation is brought forward on the Suspension Calendar, with limited debate and with no opportunity to amend in these areas, it seems to me it therefore forecloses us the opportunity to deal with this legislation.

Over the last number of years, we have dealt with this particular commission by continuing resolution, by unanimous consent, essentially and really we have not been able to get into a vote where we have had amendments brought forward. For that very reason, I would ask my colleagues to vote down this bill—not because they do not want disclosure, not because they do not think the FEC is appropriate, but rather that we be given an opportunity to deal with the substantive questions that are out there hanging.

One of the things that it seems to me to be very interesting is that the Federal Election Commission has shown or exhibited this readiness to tightly regulate voluntary participation in the electoral process as evidenced by these proposed regulations. These proposed regulations are so outrageous that a letter authored by the

distinguished ranking minority Member, the gentleman from Minnesota [Mr. FRENZEL], and the gentleman from California [Mr. THOMAS], the distinguished ranking minority member of the subcommittee, to the Chairman of the FEC recently caused them to say this:

> We have received a number of negative comments on the Commission's proposed contribution regulations. After reviewing them, we were tempted to write to inform you that someone was submitting regulations and signing the Commission's name. Instead, we will list our concerns in this informal letter.

And they forthrightly listed a number of concerns we have about these regulations.

So my point is not that the Members have not been vigilant on this, but rather that we ought to have an opportunity to debate that on the floor and to take corrective action through the amendment process.

But at the same time that the Federal Election Commission has shown such readiness to tightly regulate voluntary participation in the political process, as I have said, and therefore really overstep its bounds in terms of the first amendment, we have the problem that they are not as ready, do not have a similar eagerness to regulate involuntary participation.

As was stated before, it took a court order to force the FEC to enforce the law after a complaint was filed with it regarding the NEA and their support of congressional candidates with funds raised through a negative dues checkoff. Although the court ruled that these funds were illegally raised and had to be refunded, the FEC did not impose any penalty on the NEA nor were congressional candidates required to return the funds.

In another case, it took a court order to force the FEC to act on a complaint filed with the Commission alleging that the AFL-CIO was illegally channeling compulsory dues money into political campaign funds operated by its PAC. I am not arguing that the PAC for the union or PAC's for any ideological concern or PAC's for any business ought not to participate in the political process, but they ought to participate under the rules established for everybody. And if the FEC has a blind eye in that regard, it seems to me we ought to be concerned about it here and we ought to be able to address it on the amendment process.

I would urge that my colleagues vote down this particular bill under this particular setting that is without an opportunity to amend.

Mr. FRENZEL. Mr. Chairman, I yield myself such time as remains, 2 minutes, I believe.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. FRENZEL] is recognized for 2 minutes.

Mr. FRENZEL. Mr. Speaker, orators on this side of this aisle have raised a couple of complaints. They have stipulated that the expenditures are not excessive, and for that I congratulate the subcommittee chairman and his counterpart, the ranking Republican on the subcommittee, the gentleman from California, BILL THOMAS. They have indicated that they want to debate this bill under a normal rule. All I can say to them is that the next time they will debate Federal Election Commission after today will be on an appropriation bill, because this I believe is our last chance.

□ 1300

The orators have also decried the proposed rules published in the Federal Register by the Elections Commission. Most of us are aware of those. The Commission has told us that it will have a hearing before considering them. I would urge each of the Members who spoke today to appear before the Commission and make such points against those regulations, proposed regulations, as they have. My best judgment is that none of them will ever become approved regulations.

Finally, it has been suggested that we have been remiss as a Congress in not getting after compulsory union dues which find their way into elections. The law clearly states that unions may communicate with their membership and corporations with their stockholders using nonvoluntary funds. I do not think that is my first choice either, Mr. Speaker, but I do not delude myself that a little debate on this floor is going to have it pass for us or change that law as long as the House is as the House is and the Senate is as the Senate is.

Lastly, there was a complaint raised about ex-Vice President Mondale and the union funds applied to his election. I would guess that after the results of the last election we should demand that union funds be spent in exactly the same way for the next Democrat Presidential candidate.

The bill ought to be promptly passed and the House should get about more important work.

Mr. SWIFT. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, the first that I heard, as chairman of the subcommittee, about the concerns is bringing this up on the Suspension Calendar included a couple of observations. One, that we as Congress have not been authorizing the FEC on any kind of a regular basis, and second, that there was very little oversight of the FEC in Congress.

I cannot speak for the other body, where the record is very different, but I would point out to this body that the House has authorized the FEC every year since I have been on the House Administration Committee. We try to do it much earlier in the year; we were sorry we could not do this in March or April because on both sides of the aisle in the committee we are very concerned that we do our part to avoid the FEC being lumped in on a continuing resolution. We simply do not believe that that is the way it should be done, and without authorization, we simply do not have the ability to do that.

The second point I would raise is that speaking for our body, the House, we have held an oversight hearing, at least one, every year that I have served on the House Administration Committee. In other words, I think that the observation raised in that early warning signals on this issue, those observations and the criticism of their lack of authorization and lack of oversight are appropriate criticisms. They simply do not apply to the House of Representatives because we have been doing our part to regularize the oversight and regularize the authorizing process of the FEC.

Now, I would point out as well that what we have referred here to today as "proposed regulations" are not that. I do not mean to pick nits on this simply because I want to raise a distinction that is perhaps more what lawyers would do, and I always hate to get into that, but the fact is what the Commission has provided is an advance notice of proposed rulemaking as opposed to proposed regulations.

Now what is the difference between all those words? The difference is that what the Commission has done is laid out a series of possible things they might consider doing and ask for comment. A perfectly appropriate thing, and in fact, the colleagues who are concerned about those are doing exactly the right thing in letter the Federal Elections Commission know they do not like some of those proposals. That is the reason that these were floated. But these come much more in the way of trial balloons than they do hard, fast, proposed rules. They are not at this stage proposed rules. Proposed rules could grow out of them, and those of us who find any of them to be obnoxious should be bringing out concerns directly to the attention of the FEC, just as in fact is being done this morning and has been done, I know, by those individuals through letters and so forth. That is perfectly appropriate. But it is not as though these rules are about to go into effect. In fact, if we go through the process, the next thing they will do is select from those something they may propose to do, and we have been assured there will be a hearing on those.

So we are a long ways down the line from having any proposal by the FEC laid out formally, let alone any proposal by the FEC be adopted.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I want to agree with the gentleman's description of the process which was much more complete than my own.

Mr. Speaker, I ask unanimous consent that I may be allowed to insert in the RECORD the full text of Mr. THOMAS' and my own letter to the FEC which was meant to be an informal communication, but since part of it has been quoted, it should be a part of the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. I thank the gentleman for his complete explanation on how far off those tentative rules are from fruition and agree with his analysis thereof.

HOUSE OF REPRESENTATIVES,
Washington, DC June 13, 1985.

Hon. JOHN MCGARRY,
Chairman, Federal Election Commission, Washington, DC.

DEAR JOHN: We have received a number of negative comments on the Commission's proposed contribution regulations. After reviewing them, we were tempted to write to inform you that someone was submitting regulations and signing the Commission's name. Instead, we will list our concerns in this informal letter. We understand that the proposed rules were published for comment and are not yet at the final stage. However, the political constituencies' concerns have been raised. The Commission, we are afraid, has created some unnecessary problems for itself, and probably for the Congress, too.

We have tried, with little success, to convey to the Commission at various times that the product it is regulating is 'free speech', and because of that, the Commission should be particularly careful with its regulatory function. Additionally, we hope the Commission never loses sight of the fact that the persons it is regulating are primarily volunteers.

Referring to Section 110.1(b) Contributions to candidates, we don't understand why the Commission is further complicating the question of when a contribution is made and for which election the contributor intended to make it for. We had hoped the FEC would simplify, not complicate. What's the matter with the date that appears on the written instrument? We further do not comprehend why the Commission should even consider an ". . . approach which would reduce the advantage currently enjoyed by candidates who are unopposed in the primary." Perhaps this was an unfortunate choice of words, and was not intended to be published in the Register. If the Commission has irresistable urges to tinker with the law, it would be appropriate for it to do it through its recommendations to Congress, rather than to rewrite the law through regulation.

Since we have been involved in the federal election laws, we have believed that the Commission often has attempted to write regulations mostly to make life easier for the regulations. We would suggest that the language regarding excess campaign funds falls into this category and would create a needless mathematical nightmare for thousands of candidates.

Referring to section 110.1(h) aggregation of contributions, we think we understand what the Commission is trying to do with this proposal. We would strongly suggest that you have no authority under existing law to do so. Our hope is that the FEC would leave some of the legislating to the Congress.

We believe the best course for the Commission is to forget the regs, regroup when the new Commissions are on board, and take another crack at it then. At the very least, we hope you will hold hearings.

Best regards,

BILL FRENZEL,
WILLIAM M. THOMAS,
Members of Congress.

Mr. SWIFT. I thank the gentleman for his observations.

Mr. Speaker, we are at an ironic point, and we get ourselves into this in the legislative body occasionally. If in fact we vote this process down, what we are likely to do is go back to the point that was first criticized initially, namely, get no authorization out this year at all. Thus, leaving this entirely up to an appropriations process, and I just simply do not think that is either responsible or what in fact those concerned with these proposed rules want to achieve at all.

I can assure my colleagues of this: That the ranking minority member, Mr. THOMAS, the ranking miniority member of the full committee, Mr. FRENZEL, and I, have already scheduled, not a specified date, but have already laid plans that there will be oversight hearings on the FEC this year, and there will be opportunity for concerns on these proposed regulations or any more formally proposed regulations to be given very careful consideration by our subcommittee at that time.

Further, I would suggest that if we go ahead and adopt this, the House will continue to do what I think the full House wants the subcommittee to do, which is, namely, to bring out authorizations on a regular, annual basis, and to conduct the oversight that the House expects providing all Members opportunities to be able to raise the issues that they are concerned with in a normal, regular pattern.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding to me.

Mr. Speaker, I think the gentleman makes some valid points. I do not think that anybody on our side who has argued against the bill on suspension would want to have a situation where we did not go through the authorization process. I am a little chagrined that we are being told that the schedule may not permit the consideration of this authorization. That is the problem that we find ourselves in; we do not do anything for months, and then all of a sudden we get important bills that have to be passed on suspension, otherwise they will not get up at all.

I would remind the gentleman that we do have a process around here called Calendar Wednesday, and since this bill has been reported from the committee, the fact is that if it could not be scheduled by the leadership, it could be brought up under Calendar Wednesday and that would give us a chance to consider it and to amend it without having the problem of getting it scheduled on the calendar, which might be an option to assure that both our concerns were met and that the gentleman's concerns were met.

Mr. SWIFT. Reclaiming my time, I think that if there were not other ways that we were in fact going to address the specific concerns that have been raised by Members with regard to the advanced notice of proposed rulemaking, there were not other ways that we were going to deal with it, I would be much more sympathetic with the suggestions of the gentleman. But I think this subcommittee has demonstrated on its record that it does not try to bring to the floor anything that it is going to try to railroad through. We have paid attention to our oversight responsibilities; that we have paid attention to our responsibilities to bring an authorization out, and we have therefore, I think, a credible basis on which to say on both sides of the aisle, these concerns will be heard in an oversight hearing this year in a timely fashion.

For that reason, I would much prefer that my colleagues vote for this authorization on the Suspension Calendar today.

□ 1310

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 1532, as amended.

The question was taken; and on a division (demanded by Mr. LUNGREN) there were—yeas 6, nays 8.

Mr. SWIFT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1532, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FDA APPROVAL LABELING ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2244) to amend the Federal Food, Drug, and Cosmetic Act to remove the prohibition against stating in the labeling and advertising of a drug that it has been approved under that act.

The Clerk read as follows:

H.R. 2244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "FDA Approval Labeling Act".

SEC. 2. LAW AMENDMENTS.

(a) SECTION 301.—Section 301(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(1)) is amended by striking out "The" and inserting in lieu thereof "(1) Except as provided in section 505(k), the".

(b) SECTION 505.—Section 505 such Act (21 U.S.C. 355) is amended by adding at the end the following:

"(k) A drug which is subject to section 503(b)(1) and which has an application approved for safety and effectiveness under this section may include on its label the statement 'FDA Approved' followed by the number assigned to the application by the Secretary and, upon the expiration of eighteen months from the date of the enactment of this subsection, such a drug which is manufactured after the expiration of such months shall include such statement and number. Such a drug may also include, in accordance with regulations of the Secretary, such statement and number in its advertising and in any labeling (other than the label).".

SEC. 3. REGULATIONS.

The Secretary of Health and Human Services shall, not later than one year from the date of the enactment of this Act, promulgate regulations under the last sentence of section 505(k) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (b) of section 1).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation, H.R. 2244.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2244 permits the manufacturers of prescription drugs to state "FDA approved" followed by the approval number in their drug labeling and advertising. This is the same bill that passed the House last year by voice vote.

Currently, section 301(L) of the Federal Food, Drug, and Cosmetic Act prohibits drug manufacturers from making any representation regarding FDA approval in their labeling or advertising. During hearings conducted by the Subcommittee on Health and the Environment, there were numerous complaints about section 301(L) because of the difficulty of determining whether a drug has been approved by FDA.

The FDA Approval Labeling Act carves out an exception to section 301(L). During the 18-month period after enactment of the bill, any drug manufacturer would be allowed to state in its drug labeling or advertising that the drug is FDA approved. After the 18-month period, all manufacturers would be required to use the statement regarding FDA approval in their drug labels.

This bill protects the public by giving pharmacists and physicians the ability to determine that their patients are only getting drugs approved by the FDA.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2244, the FDA Approval Labeling Act. As the chairman of the Subcommittee on Health and the Environment, the gentleman from California [Mr. WAXMAN] has stated, the bill would permit the manufacturers of prescription drugs to state "FDA approved," followed by their approval number on the drug label on their advertising. It is currently not allowed under section 301(L) of the Food, Drug, and Cosmetic Act.

The bill is in response to numerous complaints from pharmacists about the difficulty of determining whether a drug has been approved by the FDA.

Mr. Speaker, I believe this bill is noncontroversial. It passed the subcommittee and the full committee without dissent and, as Mr. WAXMAN has indicated, passed the House last year by a voice vote. Unfortunately, it was not taken up by the Senate. It has the support of the administration and it also has the support of pharmacists and at least the acquiescence of the Proprietary and Pharmaceutical Association.

Mr. Speaker, I urge adoption and everyone's support of the bill.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 2244.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EQUAL ACCESS TO JUSTICE ACT AMENDMENTS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2378) to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code with respect to awards of expenses of certain agency and court proceedings, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO SECTION 504 OF TITLE 5.

(a) AWARDING OF FEES IN ADVERSARY ADJUDICATIONS.—

(1) DETERMINATION OF "SUBSTANTIALLY JUSTIFIED".—Subsection (a)(1) of section 504 of title 5, United States Code, is amended by adding at the end thereof the following: "Whether or not the position of the agency was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.".

(2) CLARIFYING AMENDMENT.—Subsection (a)(1) of such section is amended by striking out "as a party to the proceeding".

(3) DECISION OF AGENCY TO BE FINAL ADMINISTRATIVE DECISION.—Subsection (a)(3) of such section is amended by adding at the end thereof the following: "The decision of the agency on the application for fees and other expenses shall be the final administrative decision under this section.".

(b) DETERMINATION OF FEES DELAYED IN CASE OF APPEAL.—Subsection (a)(2) of section 504 of title 5, United States Code, is amended by adding at the end thereof the following: "When the United States appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made under this section until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.".

(c) DEFINITIONS.—

(1) PARTY.—Paragraph (1)(B) of section 504(b) of title 5, United States Code, is amended to read as follows:

"(B) 'party' means a party, as defined in section 551(3) of this title, who is (i) an individual whose net worth did not exceed $2,000,000 at the time the adversary adjudication was initiated, or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, association, unit of local government, or organization,

the net worth of which did not exceed $7,000,000 at the time the adversary adjudication was initiated, and which had not more than 500 employees at the time the adversary adjudication was initiated; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;".

(2) ADVERSARY ADJUDICATION.—Paragraph (1)(C) of such section is amended—

(A) by inserting "(i)" before "an adjudication under";

(B) by inserting before the semicolon at the end thereof the following: ", and (ii) any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of that Act (41 U.S.C. 607)"; and

(C) by striking out "and" at the end thereof.

(3) POSITION OF THE AGENCY.—Paragraph (1) of such section is amended—

(A) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(B) by adding at the end thereof the following:

"(E) 'position of the agency' means, in addition to the position taken by the agency in the adversary adjudication, the action or failure to act by the agency upon which the adversary adjudication is based; except that fees and other expenses may not be awarded to a party for any portion of the adversary adjudication in which the party has unreasonably protracted the proceedings.".

(d) APPEALS OF FEE DETERMINATIONS.—Subsection (c)(2) of section 504 of title 5, United States Code, is amended to read as follows:

"(2) If a party other than the United States is dissatisfied with a determination of fees and other expenses made under subsection (a), that party may, within 30 days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination on any appeal heard under this paragraph shall be based solely on the factual record made before the agency. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.".

(e) AWARDS PAID FROM AGENCY FUNDS.—Subsection (d) of section 504 of title 5, United States Code, is amended to read as follows:

"(d) Fees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.".

SEC. 2. AMENDMENTS TO SECTION 2412 OF TITLE 28.

(a) CLARIFYING AMENDMENTS.—Section 2412 of title 28, United States Code, (relating to costs and fees) is amended—

(1) in subsections (a) and (b) by striking out "or any agency and any official of the United States" each place it appears and inserting in lieu thereof "or any agency or any official of the United States"; and

(2) in subsection (d)(1)(A) by inserting ", including proceedings for judicial review of agency action," after "in tort)".

(b) DETERMINATION OF "SUBSTANTIALLY JUSTIFIED".—Section 2412(d)(1)(B) of title 28, United States Code, is amended by adding at the end thereof the following: "Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought.".

(c) DEFINITIONS.—

(1) Subparagraph (B) of section 2412(d)(2) of title 28, United States Code, is amended—

(A) in clause (i) by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000", and

(B) by striking out "(ii)" and all that follows through the end of the subparagraph and inserting in lieu thereof the following: "or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the civil action was filed, and which had not more than 500 employees at the time the civil action was filed; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;".

(2) ADDITIONAL DEFINITIONS.—Subsection (d)(2) of such section is amended—

(A) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof the following:

"(C) 'position of the United States' means, in addition to the position taken by the United States in the civil action, the action or failure to act by the agency upon which the civil action is based; except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings;

"(E) 'civil action brought by or against the United States' includes an appeal by a party, other than the United States, from a decision of a contracting officer rendered pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment that is final and not appealable, and includes an order of settlement; and

"(H) 'prevailing party', in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which is at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the property owner as it is to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(d) PAYMENT OF AWARDS.—Paragraph (4) of section 2412(d) of title 28, United States Code, is amended to read as follows:

"(4) Fees and other expenses awarded under this subsection to a party shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.".

(e) INTEREST.—Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If the United States appeals an award of costs or fees and other expenses made against the United States under this section and the award is affirmed in whole or in part, interest shall be paid on the amount of the award as affirmed. Such interest shall be computed at the rate determined under section 1961(a) of this title, and shall run from the date of the award through the day before the date of the mandate of affirmance.".

SEC. 3. AWARDS IN CERTAIN SOCIAL SECURITY PROCEEDINGS.

Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(b) Section 206(b) of the Social Security Act (42 U.S.C. 406(b)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 206(b)(2) of the Social Security Act shall not apply with respect to any such award but only if, where the claimant's attorney receives fees for the same work under both section 206(b) of that Act and section 2412(d) of title 28, United States Code, the claimant's attorney refunds to the claimant the amount of the smaller fee.".

SEC. 4. REPEAL OF LIMITATION ON PAYMENT OF AWARDS.

Section 207 of the Equal Access to Justice Act (P.L. 96-481) is hereby repealed.

SEC. 5. AWARDS FOR CERTAIN FEES AND OTHER EXPENSES.

Section 208 of the Equal Access to Justice Act is amended by adding at the end thereof the following: "Awards may be made for fees and other expenses incurred before October 1, 1981, in any such adversary adjudication or civil action.".

SEC. 6. TREATMENT OF EXPIRED PROVISIONS OF LAW.

(a) REVIVAL OF CERTAIN EXPIRED PROVISIONS.—Section 504 of title 5, United States Code, and the item relating to that section in the table of sections of chapter 5 of title 5, United States Code, and subsection (d) of section 2412 of title 28, United States Code, shall be effective on or after the date of the enactment of this Act as if they had not been repealed by sections 203(c) and 204(c) of the Equal Access to Justice Act.

(b) REPEALS.—

(1) Section 203(c) of the Equal Access to Justice Act is hereby repealed.

(2) Section 204(c) of the Equal Access to Justice Act is hereby repealed.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall apply to cases pending on or commenced on or after the date of the enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS TO CERTAIN PRIOR CASES.—The amendments made by this Act shall apply to any case commenced on or after October 1, 1984, and finally disposed of before the date of the enactment of this Act, except that in any such case, the 30-day period referred to in section 504(a)(2) of title 5, United States Code, or section 2412(d)(1)(B) of title 28, United States Code, as the case may be, shall be deemed to commence on the date of the enactment of this Act.

(c) APPLICABILITY OF AMENDMENTS TO PRIOR BOARD OF CONTRACTS APPEALS CASES.—Section 504(b)(1)(C)(ii) of title 5, United States Code, as added by section 1(c)(2) of this Act, and section 2412(d)(2)(E) of title 28, United States Code, as added by section 2(c)(2) of this Act, shall apply to any adversary adjudication pending on or commenced on or after October 1, 1981, in which applications for fees and other expenses were timely fixed and were dismissed for lack of jurisdiction.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2378, the bill about to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2378, legislation expanding the liability of the Federal Government for attorneys' fees and related expenses. H.R. 2378 extends and clarifies the Equal Access to Justice Act [EAJA] (title II, Public Law 96-481), which had amended title 5 United States Code, section 504 and title 28 United States Code, section 2412. The main purpose of the legislation is to ensure access to justice for individuals and small businesses and organizations who are involved in civil disputes with the Federal Government.

The original act modified 5 U.S.C. 504 and 28 U.S.C. 2412(d) to make the United States liable for attorneys' fees and other expenses of a prevailing party in an adversary adjudication or civil action brought by or against the United States unless the agency or court could find that the position of the agency or the United States was substantially justified or that special circumstances would make an award unjust. Eligible parties under the original act have been individuals with a net worth of not more than $1 million or small businesses or organizations with a net worth of not more than $5 million.

H.R. 2378 is a revised version of H.R. 5479 (98th Congress) which passed both Houses unanimously on October 11, 1984. The final version of H.R. 5479 was a compromise between H.R. 5479 as reported by this committee and S. 919 as reported by the Senate Judiciary Committee. H.R. 5479 was vetoed by the President on November 9, 1984. In his veto message, the President expressed objections to the broadness of the definition "position of the United States," explaining that it could lead to lengthier proceedings than if only the litigation position were at issue and could lead to extensive discovery on how the position was formulated. He also expressed concern about the interest provision and disparate treatment of litigants under that provision.

During the 99th Congress, several Members and I have made efforts to fashion a bill which would address concerns which the administration raised in the President's veto message on H.R. 5479 and in later meetings.

On April 25, 1985, H.R. 2223, a revision of H.R. 5479, was introduced by Messrs. MOORHEAD, FISH, KINDNESS and myself. On April 30, the Subcommittee on Courts, Civil Liberties and the Administration of Justice—which I chair—conducted a hearing on H.R. 2223. Witnesses included representatives of the U.S. Department of Justice, Small Business United, Small Business Legal Defense Committee, the National Federation of Independent Business, and the Alliance for Justice. All witnesses supported H.R. 2223.

On May 2, 1985, the subcommittee conducted a markup of H.R. 2223, and with two minor amendments recommended that a clean bill be introduced and sent to the committee. On May 15, that bill with a minor amendment was ordered reported favorably by the committee, with a quorum present, by voice vote no objection being heard. (H. Rept. 99-120, and Part 2.) H.R. 2378 has the unanimous support of the members of the Committee on the Judiciary. The bill also has the support of the administration, as well as the Office of Advocacy of the Small Business Administration.

The legislation has wide support from such groups as Small Business United, the Small Business Legal Defense Committee, the Small Business Legislative Council, the Independent Business Association of Wisconsin, the National Federation of Independent Business, the Chamber of Commerce of the United States, the National Association of Manufacturers, the National Tire Dealers and Retreaders Association, the Menswear Retailers of America, the National Small Business Association, the American Bar Association, the ACLU, and the Alliance for Justice.

H.R. 2378 clarifies that the United States will be liable for attorneys' fees and related expenses unless the position of the Government—the action or failure to act by the Government upon which the administrative proceeding or civil action is based, as well as the litigation position—is substantially justified, or unless special circumstances would make an award unjust. Courts have been divided on whether the "position of the agency/United States" referred to the agency action which was the subject of the lawsuit or only the Government's litigation position.

The bill would limit the determination of whether the position of the United States was substantially justified to the record—including the record with respect to the action or failure to act by the agency upon which the adversary adjudication or civil action is based—which is made in the adversary adjudication or civil action for which fees and other expenses are sought. The effect of this amendment, which is designed to respond to concerns raised by the President's veto message, will be to limit discovery in EAJA fee proceedings.

In H.R. 2378 eligibility under the act would be expanded to included individuals with a net worth of $2 million or less or businesses and other organizations with $7 million or less net worth.

The legislation allows the agency rather than the adjudicative officer to make the final decision on fee awards at the agency level. A fee claimant dissatisfied with the awards may appeal the denial of or measure of the award. The legislation makes other improvements in the act, including revising the interest payment provision, defining "final judgment," and clarifying other provisions.

The bill revives certain portions of the original act which were repealed on October 1, 1984, and modifies the original legislation.

I would like to clarify the effective date provisions of H.R. 2378 and the relationship of these provisions with the original act. Cases which were pending on October 1, 1984, including fee application proceedings would be governed by the original act, provided that the time to file the fee application expired before the date of enactment of this bill. This bill would apply to any case pending on October 1, 1984, and finally disposed of before the date of enactment of this bill, if the time for filing an application for fees and other expenses had not expired as of such date of enactment. This bill would also apply to any case commenced on or after October 1, 1984, and finally disposed of before the date of the enactment of this bill, and in that case the 30-day period referred to in section 504(a)(2) of title 5, United States Code, or section 2412(d)(1)(B) of title 28, United States Code, as the case may be, shall be deemed to commence on the date of enactment of this bill. If a fee case is complete and a fee petition has been fully adjudicated before the date of enactment, with no further appeal pending on the date of enactment, the case may not, of course, be reopened

except as explicitly allowed in certain proceedings before boards of contract appeals.

I should note before closing that since the committee report was filed, the District Court of the Northern District of California has decided *Miller* v. *Hotel and Restaurant Employees and Bartenders Union*, C84-6382, (N.D. Calif., May 24, 1985) relating to eligibility for fees. This case agrees with the position taken in the committee report at page 17, finding a local union eligible for EAJA fees. This decision makes clear that even before these amendments the financial condition of a local union would be considered separately from its international affiliate.

The original act has resulted in approximately $4 million in fees and expenses. CBO has estimated a cost of $3.1 million in fiscal year 1986 to $7 million in fiscal year 1990. The legislation is a high priority for the small business community and is a valuable vehicle for improving access to justice. I urge my colleagues to support it.

□ 1320

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2378, a bill to authorize and make permanent the Equal Access to Justice Act. From its effective date of October 1, 1981, until it was sunsetted on October 1, 1984, the Equal Access to Justice Act has provided an important avenue of redress for small businessmen and individuals against unjustifiable Government action.

Last year, Congress unanimously passed legislation to make the act permanent, but the bill, H.R. 5479, was vetoed by the President on November 9, 1984. In the wake of the veto, negotiations were commenced between representatives of the administration, the small business community, the public interest groups and members and staffs of the House and Senate Judiciary Committees, in an effort to address the issues detailed in the President's veto message. These negotiations produced H.R. 2378, which I am happy to note is without opposition and is strongly supported by the administration, the American Bar Association, the Office of Advocacy of the Small Business Administration, the U.S. Chamber of Commerce, Small Business United, the National Small Business Association, the ACLU, and the Alliance for Justice.

I would like to commend my colleagues on the Subcommittee on Courts, Civil Liberties and the Administration of Justice for their work on this important legislation. I would especially like to commend and thank the chairman of the Courts Subcommittee, the gentleman from Wisconsin [Mr. KASTENMEIER], the gentleman from New York [Mr. FISH], and the gentleman from Ohio [Mr. KINDNESS] for their leadership and hard work in developing H.R. 2378. Also Senators GRASSLEY and THURMOND are to be commended for their leadership on this issue in the other body.

Mr. Speaker, small businessmen and individuals with limited assets have been without the important protection afforded by the Equal Access to Justice Act for the last 7½ months. In H.R. 2378, we have legislation with which we can quickly restore that protection. I urge my colleagues to do so by adopting H.R. 2378.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. KINDNESS].

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I urge support for H.R. 2378, which would make permanent law of the successful experiment known as the Equal Access to Justice Act. It has been gratifying to work with others and to see this matter coming together after the disappointment of last year's veto of a similar bill passed in the 98th Congress.

We believe that the objections and concerns of the administration have been fully considered and thoughtfully dealt with, that the Members of the other body who have worked on this matter are committed to proceeding with this legislation in a compatible manner, and that the Equal Access to Justice Act should become law without encountering any last-minute roadblocks from the Office of Management and Budget. In fact, we are informed today that the administration supports the passage of H.R. 2378, for which I am duly grateful.

It does seem necessary, however, to bring attention to a portion of the committee's report which would tend to mislead those uninitiated in the lore of the substantial evidence rule. At the bottom of page 9 of the report of the committee, the following statement appears:

> Agency action found to be arbitrary and capricious or unsupported by substantial evidence is virtually certain not to have been substantially justified under the Act. Only the most extraordinary special circumstances could permit such an action to be found to be substantially justified under the Act.

This gratuitously authoritarian overstatement appears to be the only error I found in the report. I wish I could have known about it or that it could have been discovered sooner than it was, but the filing deadline for the report was approaching within the hour, practically speaking, when the error was discovered. At least, however, Mr. Speaker, we can clarify the point in the record of these proceedings.

The committee report statement should not be interpreted to be the position of the committee on the point it seeks to describe and should not be interpreted to suggest that a finding of an agency action that was not supported by substantial evidence would automatically entitle a prevailing party to fees or would establish a presumption of entitlement to fees. Of course, the Government has the burden of demonstrating substantial justification under the Equal Access to Justice Act. Substantial justification is a different and a lesser standard than the substantial evidence standard applied in a review of administrative proceedings. The Government may still prove that its position was substantially justified even if the court does not believe that the case on the merits was supported by "substantial evidence on the record as a whole."

The committee recognizes the close relationship between the concepts, and the fact that a finding by the Government was not supported by substantial evidence should be accorded careful scrutiny. But indeed the quoted two sentences from the bottom of page 9 and the top of page 10 of the report do not represent a clear or a appropriately explanatory statement of the intent of the committee in the reporting of H.R. 2378.

I would, of course, welcome the comments of others with respect to the point involved, but certainly I urge that there not be confusion between the substantial evidence rule and the substantial justification measurement that is really novel to the Equal Access to Justice Act.

Mr. Speaker, I urge my colleagues to support H.R. 2378.

Mr. MOORHEAD. Mr. Speaker, if the gentleman will yield, I would just like to state that I concur in the remarks of the gentleman from Ohio [Mr. KINDNESS], especially as they relate to his clarification of the relationship between the standards of substantial evidence and substantial justification.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, reference has been made to the report. In its report (H. Rept. 99-120) the committee discusses the relationship between a finding by a court that Government action was not supported by substantial evidence and a finding that the Government's position was not substantially justified. Now, I do not understand the committee report to suggest that a finding that an agency action that was not supported by substantial evidence would automatically entitle the prevailing party to fees and expenses or would establish a legal presumption of entitlement to fees.

□ 1330

The committee recognizes the close relationship between the concepts and the fact that a finding that Government action was not supported by substantial evidence should be accorded significant weight.

Of course, the government has the burden of proof of demonstrating substantial justification. Substantial justification is a different standard than the substantial evidence standard. The Government may still prove that the position it took was substantially justified. Proving it is not intended to be so difficult that the Government may only avoid fees by prevailing in the litigation.

Mr. Speaker, I believe this bill is in excellent shape and ought to be overwhelmingly approved by the House.

● Mr. FISH. Mr. Speaker, as one who was an original cosponsor of the Equal Access to Justice Act when it was first approved by Congress in 1980 (Public Law 96-481), I would like to indicate my strong support for H.R. 2378. This legislation, of which I am also an original cosponsor, will reauthorize and make permanent this important regulatory reform measure.

Last year, based primarily on the 3 years of experimentation that were provided by the original act, which expired on October 1, 1984, Congress approved reauthorizing legislation (H.R. 5479). However, President Reagan saw fit to veto that legislation on November 9, 1984. Since the veto I have cooperated with the administration, the small business community, the public interest groups, as well as members and staffs of the House and Senate Judiciary Committees in an effort to produce an acceptable bill. I believe that our collective efforts have produced a bill in H.R. 2378 that will prove to be workable in a manner that ensures fairness to both sides in regulatory proceedings and court actions.

I am happy to note that H.R. 2378 includes the language of an amendment which I offered in the full Judiciary Committee last Congress to expand the definition of eligible "party" under this statute. As originally enacted, the definition of party contained the words "corporation" and "organization." The issue as to whether or not units of local government were eligible to be reimbursed for attorney's fees and court costs was left ambiguous. The unfortunate result has been that, for the most part, smaller governmental bodies have not been considered to be eligible parties under the act.

In my estimation, the Equal Access to Justice Act should assist any small organization, whether private or governmental, that is involved in a regulatory or litigation dispute with the United States and where the position of the United States is determined to be not "substantially justified." Units of local government are frequently involved in adjudications or litigation regarding grant eligibility and grant reductions under a variety of Federal assistance programs. Smaller governmental entities face the same cost deterrents and other disadvantages that small businesses do in such proceedings. They should be eligible for reimbursement for their fees and expenses where appropriate.

This extension of the Equal Access to Justice Act has received broad support from the administration, the Chamber of Commerce of the United States, the National Federation of Independent Business, the American Bar Association, the National Small Business Association, the Administrative Conference of the United States, the Office of Advocacy of the Small Business Administration, the ACLU and the Alliance for Justice.

In summary, this legislation permanently codifies a remedial statute that has proven that it can work well and, in addition, makes numerous clarifications in the language of the law to correct existing ambiguities. I strongly urge my colleagues to support the passage of H.R. 2378.●

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 2378, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STATUE OF LIBERTY-ELLIS ISLAND COMMEMORATIVE COIN ACT

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 47) entitled "An Act to provide for the minting of coins in commemoration of the centennial of the Statue of Liberty," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

TITLE I—STATUE OF LIBERTY-ELLIS ISLAND COMMEMORATIVE COINS

SHORT TITLE

SEC. 101. This Act may be cited as the "Statue of Liberty-Ellis Island Commemorative Coin Act".

COIN SPECIFICATIONS

SEC. 102. (a)(1) The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 500,000 five dollar coins which shall weight 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) The design of such five dollar coins shall be emblematic of the centennial of the Statue of Liberty. On each such five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1986", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b)(1) The Secretary shall issue not more than ten million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) The design of such dollar coins shall be emblematic of the use of Ellis Island as a gateway for immigrants to America. On each such dollar coin there shall be a designation of the value of the coin, an inscription of the year "1986", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c)(1) The Secretary shall issue not more than twenty-five million half dollar coins which shall weigh 11.34 grams, have a diameter of 1.205 inches, and shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) The design of such half dollar coins shall be emblematic of the contributions of immigrants to America. On each such half dollar coin there shall be a designation of the value of the coin, an inscription of the year "1986", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SOURCES OF BULLION

SEC. 103. (a) The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(b) The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

DESIGN OF THE COINS

SEC. 104. The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Chairman of the Statue of Liberty-Ellis Island Foundation, Inc. and the Chairman of the Commission of Fine Arts.

SALE OF THE COINS

SEC. 105. (a) Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $2 for the half dollar coins.

ISSUANCE OF THE COINS

SEC. 106. (a) The gold coins authorized by this title shall be issued in uncirculated and proof qualities and shall be struck at no more than one facility of the United States Mint.

(b) The one dollar and half dollar coins authorized under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) Notwithstanding any other provision of law, the Secretary may issue the coins minted under this title beginning October 1, 1985.

(d) No coins shall be minted under this title after December 31, 1986.

GENERAL WAIVER OF PROCUREMENT REGULATIONS

SEC. 107. No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

DISTRIBUTION OF SURCHARGES

SEC. 108. All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Statue of Liberty-Ellis Island Foundation, Inc. (hereinafter in this title referred to as the "Foundation"). Such amounts shall be used to restore and renovate the Statue of Liberty and the facilities used for immigration at Ellis Island and to establish an endowment in an amount deemed sufficient by the Foundation, in consultation with the Secretary of the Interior, to ensure the continued upkeep and maintenance of these monuments.

AUDITS

SEC. 109. The Comptroller General shall have the right to examine such books, records, documents, and other data of the Foundation as may be related to the expenditure of amounts paid, and the management and expenditures of the endowment established, under section 108.

COINAGE PROFIT FUND

SEC. 110. Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

FINANCIAL ASSURANCES

SEC. 111. (a) The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this title shall result in no net cost to the United States Government.

(b) No coin shall be issued under this title unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

TITLE II—LIBERTY COINS

SHORT TITLE

SEC. 201. This title may be cited as the "Liberty Coin Act".

MINTING OF SILVER COINS

SEC. 202. Section 5112 of title 31, United States Code, is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following new subsections:

"(e) Notwithstanding any other provision of law, the Secretary shall mint and issue, in quantities sufficient to meet public demand, coins which—

"(1) are 40.6 millimeters in diameter and weigh 31.103 grams;

"(2) contain .999 fine silver;

"(3) have a design—

"(A) symbolic of Liberty on the obverse side; and

"(B) of an eagle on the reverse side;

"(4) have inscriptions of the year of minting or issuance, and the words 'Liberty', 'In God We Trust', 'United States of America', '1 Oz. Fine Silver', 'E Pluribus Unum', and 'One Dollar'; and

"(5) have reeded edges.

"(f) The Secretary shall sell the coins minted under subsection (e) to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dyes, use of machinery, and overhead expenses).

"(g) For purposes of section 5132(a)(1) of this title, all coins minted under subsection (e) of this section shall be considered to be numismatic items.

"(h) The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.".

PURCHASE OF SILVER

SEC. 203. Section 5116(b) of title 31, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out "The Secretary shall" and inserting in lieu thereof "The Secretary may";

(2) by striking out the second sentence of paragraph (1); and

(3) by inserting after the first sentence of paragraph (2) the following new sentence: "The Secretary shall obtain the silver for the coins authorized under section 5112(e) of this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).".

CONFORMING AMENDMENT

SEC. 204. The third sentence of section 5132(a)(1) of title 31, United States Code, is amended by inserting "minted under section 5112(a) of this title" after "proof coins".

EFFECTIVE DATE

SEC. 205. This title shall take effect on October 1, 1985, except that no coins may be issued or sold under subsection (e) of section 5112 of title 31, United States Code, before September 1, 1986, or before the date on which all coins minted under title I of this Act have been sold, whichever is earlier.

Amend the title so as to read "An Act to authorize the minting of coins in commemoration of the centennial of the Statue of Liberty and to authorize the issuance of Liberty Coins.".

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. LEWIS of California. Reserving the right to object, Mr. Speaker, I raise my right to object in order to have colloquy with my colleague, the gentleman from Illinois.

First, let me say, Mr. Speaker, on behalf of the House, we all appreciate the fine work that the gentleman from Illinois [Mr. ANNUNZIO] does in handling his subcommittee. We have had some ongoing discussion regarding not just this fantastic project, which is the Statue of Liberty coin, but also have discussed the feasibility of having minted silver and gold coins.

On the part of the other body, they addressed the question and the way this bill has developed at this point, the bill does include a silver coin. Because of a misunderstanding between the two bodies, and I must say here that from time to time one of our difficulties is when we are dealing with the other body, we deal with staff and misunderstandings do occur; nonetheless, I am disconcerted by the lack of action on the part of the other body relative to a gold coin.

The gentleman from Illinois has discussed this further with me and I would like to have the gentleman respond to my concern for the record.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. Yes.

Mr. ANNUNZIO. Mr. Speaker, 3½ months ago the House passed H.R. 47 providing for the minting of commemorative coins to help raise money for the restoration of the Statue of Liberty and the immigration facilities on Ellis Island. When this House passed H.R. 47 last March, I had hoped for prompt action in the other body so that we could begin minting and marketing these coins by the Fourth of July. Unfortunate legislative delays in the other body have set that schedule back to a point where we cannot afford any more delay. Every day that goes by is a day of sales lost that we can never recover. We need to act on this legislation today so that we can begin selling the coins as quickly as possible.

Reports from the Statue of Liberty-Ellis Island Foundation indicate that it is severely strapped for cash. Without the cash from coin sales, I fear that work on restoring this great symbol of our Nation's ideals might come to a halt. The sooner we can begin taking orders for these coins, the sooner we can start providing the badly needed funds to restore the statue. We must act today or risk leaving Miss Liberty caged in the scaffolding that now surrounds her.

The amended bill would add a provision providing for the minting of $1 legal tender siliver bullion coins beginning in September 1986. These coins would be legal tender for their face value of $1, but would be sold by the Treasury at a price determined by the market value of silver plus a small charge for minting. The sale price would fluctuate with changes in the free market price of silver.

These coins would compete with the Onza silver bullion coin of Mexico, as well as a number of private silver medallion offerings. The mint would strike as many or as few of Liberty coins as were needed to fill public demand for them. There would be no minimum mintage and no maximum mintage.

The silver for these coins, as well as for the silver Statue of Liberty coins would come from the national defense stockpile. The silver in the stockpile has been declared surplus. Last year the Congress authorized the disposal of 10 million ounces of silver as part of the Defense Authorization Act.

The stockpile needs to sell the silver so that the stockpile may use the proceeds to purchase other vitally needed strategic materials. Using the silver to mint the Statue of Liberty and the silver bullion coins provides a means of disposal which some believe is least disruptive of the bullion markets.

While I wish the other body had passed H.R. 47 without amendment 3 months ago, and left the issue of bullion coins to be dealt with separately, I support the Senate amendment. The author of the amendment, Senator McCLURE, together with Senator D'AMATO, met with the distinguished ranking minority member of the Consumer Affairs and Coinage Subcommittee, Mr. HILER, and myself several months ago and discussed the amendment. It was acceptable to me then and it is acceptable to me now.

Mr. Speaker, I want to commend Senator McCLURE, the distinguished Senate majority leader, Senator DOLE, Senator PROXMIRE, Senator D'AMATO and the chairman of the Senate Banking Committee, Senator GARN, for their efforts in this legislation.

I urge this House to agree to the amendment so that the mint can begin the hard work of designing, striking and selling the Statue of Liberty coins. She has been kept waiting long enough.

Mr. Speaker, as I stated earlier and have stated on numerous occasions, I want to give the gentleman from California who has shown a tremendous interest in the gold program sales for Ellis Island and restoration of the Statue of Liberty, assurances that we will proceed with hearings on the gold coin as soon as possible.

Mr. LEWIS of California. Mr. Speaker, could I ask my colleague, the gentleman from Illinois, a further question.

It is my concern that if we should have hearings on a gold coin and those hearings proceed successfully in July, following those hearings and markup I would hope that a gold coin would come to the floor with specifics that cause it to be as close to the Krugerrand as possible, for our purposes to have a gold coin that will compete directly with the Krugerrand.

One of the elements involved there relates to whether there should be a denomination of value or not. It is my concern to have every opportunity to see that there is no denomination required.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield. As the gentleman knows, I will come to the floor with a bill as soon as possible with whatever the committee in its judgment decides. When that bill passes the committee, I intend to go to the Rules Committee for an open rule.

The gentleman from California will be given every opportunity to have his point of view made known, not only to the committee, but to the House as a whole.

Mr. LEWIS of California. The agreement of my colleague to assist me in getting an open rule, should there be a need for one, is very much appreciated and would be very helpful as we proceed in this process.

Let me ask a question of the gentleman relative to what his intention would be should a bill with a gold coin of the kind I have mentioned to move from the Senate and come to the House.

Mr. ANNUNZIO. In that case, as the gentleman from California knows, we would have to deal with it in conference, if there is a different House-passed bill.

Mr. LEWIS of California. Then the gentleman is telling me that if a gold coin bill should move from the Senate preceding the time we even have hearings, would it be the intention of the gentleman to move with the bill quickly? How would the gentleman handle such a bill?

Mr. ANNUNZIO. Mr. Speaker, as the gentleman knows, in order to go to conference we would have to have a House vehicle. If there is no House vehicle and the bill comes from the Senate, I would hold hearings on that bill in the same manner. We would get to the floor as soon as possible. I am quite anxious to get to the floor with a bill.

Mr. LEWIS of California. Mr. Speaker, if indeed a bill moved from the Senate had a gold coin that was as close in specifications as possible to the Krugerrand, I would hope to move the bill to the gentleman's committee and move that back to the floor as quickly as possible.

I would appreciate the gentleman's direct response to that.

Mr. ANNUNZIO. As chairman of the subcommittee, I have assured the gentleman on numerous occasions that I will take all necessary steps to get the legislation to the floor.

Mr. LEWIS of California. Mr Speaker, let me say to the gentleman from Illinois that I very much appreciate his cooperation in this matter. Beyond discussing the question of a gold coin that we believe would put the United States in the competitive marketplace with other gold coins around the world, the most significant factor involved in that is the reality that presently we have approximately $1 billion of deficit in gold coin trading.

It is my view that we could impact greatly that deficit problem. No small part of that reality is that some $400 million in such trading has been going to South Africa. We could be sending a very effective marketplace message to the Government of South Africa.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield further, I want to extend every possible consideration, but I do not feel at this time we should take up the time of the House, when we will discuss this bill in committee and later on the floor of the House.

Mr. LEWIS of California. The gentleman is correct.

If I may continue for just one moment, I would like to conclude my remarks by once again stating to the House that all of us should express our appreciation to the gentleman from Illinois for his leadership in this matter. The issue centers around refurbishing the most important statue in the world, the Statue of Liberty, directly related to the funding of that reconstruction can be credited to the gentleman from Illinois and for that I express once again my appreciation.

Mr. ANNUNZIO. Mr. Speaker, I appreciate the gentleman's kind remarks.

I also want to thank the distinguished gentleman from Wisconsin [Mr. KASTENMEIER] for yielding the time so that the gentleman from California and I could engage in this colloquy.

Mr. LEWIS of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois [Mr. ANNUNZIO]?

Mr. CRAIG. Mr. Speaker, reserving the right to object, and with that reservation I will not object. I stand to thank our colleague, the gentleman from Illinois, for his tremendous leadership on this issue.

As my colleague, the gentleman from California, has said, to grasp the opportunity to generate the necessary

revenues for the purpose of refurbishing the Statue of Liberty is no small effort and a very important step for this body to take under the leadership of Chairman ANNUNZIO.

I would also like to compliment our chairman for his willingness to cooperate with my colleague, the gentleman from California, the opportunity to have hearings and a markup and floor activity on a gold coin.

I think that also is very important for our country to be able to have these kinds of opportunities and also, as my colleague from California recognizes, to offset a trade problem that is certainly a major stumbling block in our economy at this time.

In the last hour, the chairman has shown tremendous willingness to cooperate and to work in this process.

I also want to thank the gentleman for recognizing the amendments that came forth from the Senate that do not detract from, but add to this legislation, H.R. 47. In that legislation is an amendment that we are looking at today that is critical to States like mine that address the silver issue with a one-ounce silver bullion coin to be minted from stockpile reserves of our Nation. I think that is an important step to allow this to happen, to allow Government to become involved in the minting process and to use the source of silver as so designated by the amendment.

Let me say, Mr. Speaker, and to the chairman, we are very appreciative of the chairman's cooperation and leadership in this area and look forward to working with the gentleman from Illinois on the gold coin issue.

□ 1340

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. I want to say to the gentleman from Idaho that it is not only in the last hour that I have been cooperating. I have been a Member of this body for 21 years, and for 21 years I have been cooperating with every Member of this House, wherever I could.

Mr. CRAIG. Mr. Speaker, my comments are not to reflect that you have been noncooperative at all. I say with these amendments coming over from the other body your willingness to accept and move forward with this legislation was greatly appreciated, and I was referencing the cooperation on that effort at that moment, and I thank the gentleman.

Mr. ANNUNZIO. I thank the gentleman very much.

Mr. CRAIG. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PATENT AND TRADEMARK OFFICE AUTHORIZATIONS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2434) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) PURPOSES AND AMOUNTS.—There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $101,631,000 for fiscal year 1986, $110,400,000 for fiscal year 1987, and $111,900,000 for fiscal year 1988; and

(2) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(b) REDUCTION OF PATENT FEES.—Amounts appropriated under subsection (a)(1) shall be used to reduce by 50 per centum each fee paid under section 41(a) or 41(b) of title 35, United States Code, by—

(1) an independent inventor or nonprofit organization as defined in regulations prescribed by the Commissioner of Patents and Trademarks, or

(2) a small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 2. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following) may remain available until expended.

SEC. 3. INCREASES OF TRADEMARK AND CERTAIN PATENT FEES PROHIBITED.

(a) TRADEMARK FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1986, 1987, and 1988, increase fees established under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

(b) PATENT FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1986, 1987, and 1988, increase fees established under section 41(d) of title 35, United States Code, except for purposes of making adjustments as described in section 41(f) of such title. The Commissioner also may not establish additional fees under such section during such fiscal years.

SEC. 4. FEES FOR USE OF SEARCH ROOMS AND LIBRARIES PROHIBITED.

The Commissioner of Patents and Trademarks may not impose a fee for use of public patent or trademark search rooms and libraries. The costs of such rooms and libraries shall come from amounts appropriated by Congress.

SEC. 5. USE OF PATENT AND TRADEMARK FEES PROHIBITED FOR PROCUREMENT OF AUTOMATIC DATA PROCESSING RESOURCES.

Fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) and section 41 of title 35, United States Code, may not be used during fiscal years 1986, 1987, and 1988 to procure by purchase, lease, transfer, or otherwise automatic data processing resources (including hardware, software and related services, and machine readable data) for the Patent and Trademark Office.

SEC. 6. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED.

The Commissioner of Patents and Trademarks may not exchange items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and machine readable data) during fiscal years 1986, 1987, and 1988. This section shall not apply to any agreement relating to data for automation programs entered into with a foreign government or with a bilateral or international intergovernmental organization.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just undertaken, and that I may revise and extend my own remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before the full House the bill, H.R. 2434, to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for the next 3 fiscal years. The bill authorizes appropriations for salaries and necessary expenses up to the following amounts:

$101,631,000 in fiscal year 1986; $110,400,000 in fiscal year 1987; and $111,900,000 in fiscal year 1988.

As the Members of the House well know, reliable patent and trademark protection for inventors and businesses can provide incentives for technological progress and investment. When President Reagan signed Public Law 98-622—which was passed unanimously by this House just last year—he said: "The stimulation of American inventive genius requires a patent system that offers our inventors prompt and effective protection for their inventions." The recent report of the President's Commission on Industrial Competitiveness noted, "Since technological innovation requires large investments of both time and money, the protection of our intellectual property is another task we should place on our competitive agenda." The Carter administration made similar statements, as did proceeding administrations.

An effective Patent and Trademark Office is the cornerstone for reliable patent and trademark protection. Changes in the manner of operating the Office can have as great an impact on the Nation's economy as changes in the substantive rules of patent and trademark law. Since this Nation's intellectual property laws are largely self-enforcing, the effectiveness of an entity that administers the law—as compared to an agency that regulates the law—is critical.

This authorization bill equips the Patent and Trademark Office to administer efficiently and expeditiously this Nation's patent and trademark laws, and in so doing, will benefit the public by improving the quality of our industrial property system.

H.R. 2434 is fiscally responsible. The bill generally respects the administration's authorization request, with two exceptions; both offered by the ranking minority member of the subcommittee, Mr. MOORHEAD, and approved by the full committee. The first froze the authorization level in fiscal year 1986 at what was in fiscal year 1985. The net effect of this change is to add to the administration's request approximately $17 million to the authorization. The administration had intended to use approximately $17 million in excess user fees to cover this shortfall. I have always felt that user fees should be expended to improve the quality of service. Therefore, reliance on user fees as a form of taxation is highly questionable both in terms of integrity and legality. The users of this Nation's patent and trademark system do not like it, and I agree with them.

The second change eliminated an open ended appropriation for fiscal years 1987 and 1988. The figures inserted were provided by the Department of Commerce. The Judiciary Committee generally avoids open ended authorizations; this change accomplishes that end. I shortly will defer to the ranking minority member to explain the numbers in more depth.

Before terminating my brief remarks, I should state several thoughts about automation. Several years ago, this committee—and the Congress—asked PTO to automate. We were extremely concerned about the integrity of the search files—approximately 7 percent of the patent files are missing at any given time. If the quality of the search is poor, the resultant quality of the patent will also be poor.

Automation could solve this problem.

PTO, however, has not been very competent in creating and implementing its automation plans. This statement is not mine; rather, I could attribute it to the Government Accounting Office, the chairman of the Government Operations Committee, Mr. BROOKS, and groups that rely on Patent and Trademark Office operations.

The committee therefore decided to put the brakes on automation, at least temporarily, until PTO, and the Department of Commerce, comply with Government procurement laws, and produce a plan that clearly sets forth the Office's position on costs of financing—uses of appropriated funds—public access to the data bases of Government records, and the status of the public search rooms. I understand that positive movement is now occurring in this area.

The $17 million carryover of user fees should give PTO and Commerce the necessary cushion to formulate such a plan. At some point in time, perhaps in negotiations with the Senate, the bill will have to be modified to create a little bit more flexibility in PTO if, indeed, we want the Office to automate.

I pledge to work with the administration, the minority, and the Committee on Government Operations to create in the future a workable and lawful automation plan that meets both user and public interests.

H.R. 2434 is supported by Intellectual Property Owners, Inc., the American Intellectual Property Law Association, and the United States Trademark Association.

In closing, I thank the members of my subcommittee, especially the gentleman from Texas [Mr. BROOKS] and the gentleman from California [Mr. MOORHEAD] for their assistance and their contribution on this important measure.

I urge your support for H.R. 2434.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2434, the Patent and Trademark Office reauthorization. This legislation has the unanimous support of the Judiciary Committee. It also has the unanimous support of those people who use the Patent Office as represented by the American Intellectual Property Law Association, the Intellectual Property Owners, Inc., and the United States Trademark Association.

The Patent and Trademark Office is one of the great user fees success stories of this administration. In 1985 the users of the Patent and Trademark Office paid nearly $100 million, roughly one-half of their operating budget. In 1982 the users paid approximately $29 million, which was less than one third of their operating budget. When the Judiciary Committee and this body supported the administration's legislation in 1982, we made a promise to the American inventor, that if he or she would go along with the increase in user fees, we would try and provide a first class Patent and Trademark Office. Well, 3 years later, unknown to us, the OMB decided to cut next year's appropriation for the Patent and Trademark Office by approximately $16 million, and the reason given for this was that there had been an excess in fees collected from the users during the preceding 3 years and that so-called excess was going to be used to reduce by that amount the U.S. Government's commitment to improve the Patent and Trademark Office. This reduction in authorization levels also resulted in an announcement by the Patent and Trademark Office in a reduction in services provided by that Office.

We made a promise to the American inventor 3 years ago, and if we make these cuts we would be going back on our promise after the American investor had kept his end of the deal. This is not what we are going to do—and this is not what this legislation does. We are going to retain the same level of funding as in fiscal year 1985. In other words H.R. 2434 freezes the authorized level of appropriations for the Patent and Trademark Office for 1986 at $101.6 million. It would be unfair to take those user fees and use them to reduce our commitment to U.S. innovation. It's clear to even the most casual observer, that the Patent and Trademark Office plays a critical role in this country's innovation process. It is this process that creates new products—it is this process that creates new technologies and it is this process that's creating badly needed new jobs.

The stimulation of the American inventive genious requires a patent system that offers our inventors prompt, secure, and effective protection for their inventions and that is the direction we are heading and that

is the direction this legislation takes. I urge you to vote in favor of H.R. 2434.

□ 1350

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time.

I yield back the balance of my time.

Mr. KASTENMEIER. Mr Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 2434, as amended.

The question was taken; and (two-thirds have voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FAMILY FARMER BANKRUPTCY ACT OF 1985

Mr. SYNAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2211) to amend title 11 of the United States Code with respect to bankruptcy proceedings involving debtors who are family farmers, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

Section 101 of title 11, United States Code, is amended—

(1) in paragraph (17) by inserting "(except when such term appears in the term 'family farmer')" after "means",

(2) by redesignating paragraphs (17) through (49) as paragraphs (18) through (50), respectively, and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) 'family farmer' means a person not less than 80 percent of the aggregate amount of whose debts, at the time the case commences, arises out of a farming operation owned or operated by such person and, if such person is a corporation—

"(A) more than half of the aggregate value of the outstanding equity securities of such corporation are held by one family or by one family and the relatives of the members of such family; and

"(B) if such corporation issues stock, such stock is not publicly traded;

except that such aggregate amount does not include a debt for the principal residence of such person unless such debt arises out of a farming operation;".

SEC. 2. WHO MAY BE A DEBTOR.

Section 109(e) of title 11, United States Code, is amended—

(1) by striking out "or an individual" and inserting in lieu thereof "; an individual", and

(2) by inserting before the period at the end thereof "; or a family farmer with regular annual income that owes on the date of the filing of the petition noncontingent, liquidated, secured and unsecured debts of less than $1,000,000".

SEC. 3. INVOLUNTARY CASES.

Section 303(a) of title 11, United States Code, is amended by inserting ", family farmer," after "farmer".

SEC. 4. FILING OF PLAN.

(a) PERIOD FOR FILING BY DEBTOR.—Section 1121(b) of title 11, United States Code, is amended by inserting before the period at the end thereof "or, in the case of a debtor who is a farmer, until after 240 days after the date of the order for relief under this chapter".

(b) FILING BY ANY PARTY IN INTEREST.—Section 1121(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "(other than a farmer)" after "debtor", and

(B) by inserting before the semicolon at the end thereof the following: "or, in the case of a debtor who is a farmer, before 240 days after the date of the order for relief under this chapter", and

(2) by amending paragraph (3) to read as follows:

"(3) the debtor has not filed a plan that has been accepted—

"(A) in the case of a debtor who is not a farmer, before 180 days; or

"(B) in the case of a debtor who is a farmer, before 300 days;

after the date of the order for relief under this chapter, by each class of claims or interests that is impaired under the plan.".

(c) AUTHORITY TO EXTEND PERIODS.—Section 1121(d) of title 11, United States Code, is amended by striking out "the 120-day period or the 180-day period referred to in" and inserting in lieu thereof "any period referred to in subsection (b) or (c) of".

SEC. 5. COMPENSATION OF TRUSTEE.

(a) AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—Section 1302(e)(1)(B) is amended to read as follows:

"(B) a percentage fee not to exceed—

"(i) in the case of a debtor who is not a family farmer, ten percent; or

"(ii) in the case of a debtor who is a family farmer, the sum of—

"(A) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed $450,000; and

"(B) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds $450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee."

(b) AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.—Section 586(e)(1)(B) of title 28, United States Code, is amended to read as follows:

"(B) a percentage fee not to exceed—

"(i) in the case of a debtor who is not a family farmer, ten percent; or

"(ii) in the case of a debtor who is a family farmer, the sum of—

"(A) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed $450,000; and

"(B) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds $450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee."

SEC. 6. CONVERSION.

(a) AMENDMENT TO CHAPTER 11.—Section 1112(c) of title 11, United States Code, is amended by inserting ", family farmer," after "farmer".

(b) AMENDMENT TO CHAPTER 13.—Section 1307(e) of title 11, United States Code, is amended by inserting "or family farmer" after "farmer".

SEC. 7. CONTENTS OF PLAN.

(a) CONTENTS OF PLAN.—Section 1322(b)(2) of title 11, United States Code, is amended by striking out "debtor's principal residence" and inserting in lieu thereof "principal residence of a debtor who is not a family farmer whose principal residence is located on real property used by such family farmer in connection with a farming operation or is located within a reasonable proximity to the farming operation of such family farmer".

(b) PERIOD FOR PAYMENTS UNDER PLAN.—Section 1322(c) of title 11, United States Code, is amended by inserting before the period at the end thereof the following: "in the case of a debtor who is not a family farmer, or longer than ten years in the case of a debtor who is a family farmer".

SEC. 8. PAYMENTS.

Section 1326(a)(1) of title 11, United States Code, is amended by adding at the end thereof the following: "If the debtor is a family farmer who requests, not later than 15 days after the order for relief, that the court hold a hearing to determine whether to order a different time for the commencement of payments proposed by the plan, then the court shall, not later than 30 days after the date of such request, hold a hearing and determine from the facts and circumstances of the debtor and the case a reasonable time after the plan is filed within which the debtor shall commence making the payments proposed by the plan.".

SEC. 9. TECHNICAL AMENDMENTS.

(a) The table of chapters for title 11 of the United States Code is amended in the item relating to chapter 13 by inserting "OR A FAMILY FARMER" after "INDIVIDUAL".

(b) The heading for chapter 13 of title 11 of the United States Code is amended by inserting "OR A FAMILY FARMER" after "INDIVIDUAL".

SEC. 10. APPLICABILITY OF AMENDMENTS.

The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oklahoma [Mr. SYNAR] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. I thank the Speaker.

Mr. Speaker, the Family Farm Bankruptcy Reform Act is an important piece of legislation for America's farmers. We would not be here today if it were not for a handful of Members who went the extra mile to make this bill a reality. First, I would like to thank DICK GEPHARDT, TOM DASCHLE, PAT SCHROEDER, and DAN GLICKMAN. These friends helped every step of the

way. I would also like to thank the chairman of the Committee on the Judiciary, the gentleman from New Jersey, Mr. PETER RODINO, and our ranking Republican Member, the gentleman from New York, HAMILTON FISH. Their bipartisan leadership contributed to this outstanding bill today. Finally, I would like to thank the majority leader, JIM WRIGHT, the majority whip, TOM FOLEY, and the deputy whip, BILL ALEXANDER, for their help. The farm issue deserves Congress' most serious attention, and it is needed right now.

Mr. Speaker, today's bill is designed to help one group of Americans, farmers who will go bankrupt. This is not a powerful group of people but, unfortunately, it is a growing group.

The bill will not solve the family farm crisis in this country, but it will slow down the ongoing deterioration or rural America long enough for Congress to pass a farm bill and reassess our trade and tax policy and take other steps necessary to revitalize our farm economy. Fortunately, this bill gives individual farmers a fighting chance to reorganize their debts and stay on the farm. It is not a handout. The relief we are offering will only work if a farmer and his operation has enough financial vitality to successfully reorganize on its own. But it gives the farmers a chance, Mr. Speaker, and that is more than they have today.

In Oklahoma, as in many other States around this country, you have heard over and over again from most of our farmers and they say they are not in the type of shape that we need today.

We always hear that only the bottom third who need help, but each year that bottom rung on the ladder gets knocked off and now the entire farm community is sliding down farther and farther. Our bill will keep the farmers on that bottom rung of the ladder and the entire family farm community will benefit. Now this is a special bill for two reasons today: First of all, I think it is a great example of how local people can solve local problems when they find out. It was back in December of last year that Judge Richard Bohannon, the Federal bankruptcy judge of the western district of Oklahoma, approached me, along with Herbert Graves, an attorney from Oklahoma City, and Prof. John TeSelle, professor of bankruptcy at the University of Oklahoma, with a way that would better give a fairness doctrine to our farmers.

Along with two judges from the middle district of Tennessee, Judge George Paine and Judge Keith Lundin, we were able to fashion a bill which will help our farmers in the courtrooms for those who will have to seek bankruptcy in the months ahead.

The second reason this legislation is special is because it is truly bipartisan.

Unlike other pieces of legislation that hit the floor which are called bipartisan because one or two Members of the other party lend their names to it, this legislation passed the Judiciary Committee unanimously by a 32-to-0 vote. I think that that shows very clearly that the farm crisis that we face in this country is being recognized by both parties and this legislation is needed and recognized by both parties to be needed.

To summarize, the bill, H.R. 2211, basically opens up chapter 13 of the Bankruptcy Code for family farmers, including those who have limited partnerships and nonpublic corporations.

Chapter 13 is much quicker and more flexible than chapter 11, which presently is the only chapter available to farmers seeking to reorganize.

Chapter 11 simply does not work for farmers and many who try to reorganize wind up being liquidated involuntarily after creditors rejected their reorganization plan.

This bill extends the length of time for chapter 13 plans for farmers.

Under current law, the chapter 13 debtors can propose a 3-year plan which can be extended, for cause, to 5 years. Under H.R. 2211 they will be able to take up to 10 years to repay their debts.

H.R. 2211 also allows for the modification of home mortgages of the family farmers whose homes are either on or reasonably close to their farms.

Finally, this legislation achieves an important policy of keeping family farmers on the farm. Many who suffer financial problems are the victims of factors beyond their control. If they can reorganize successfully, this legislation will help.

My colleagues, there are no losers in this bill today. For the farmers will be given an opportunity to reorganize and the farmers and ranchers that adjoin property being foreclosed on today will not see their equity deteriorate because of those foreclosures, and so they will benefit.

The financial institutions in this country will benefit because instead of getting 10 cents on the dollar they will be able to, hopefully, get full payment for those debts that they have.

Our small towns and communities in rural America will benefit because the family farms, which are so tied to the small businesses of these towns, will be viable.

Finally, and most importantly, the consumers are the big winners, for three reasons:

First of all, it is good public policy in this country to have the family farm unit in this country; second, with more family farmers, there will be more competition and, hopefully, lower prices; and, finally, and the major objection that the administration had had previously to other farm legislation, this bill does not cost one red cent.

□ 1400

So I ask my colleagues today, in a piece of legislation which we so rarely see around here, a truly bipartisan bill, to join with me to give that glimmer of hope to our family farmers, some 30,000 to 60,000 of them, who will be forced into bankruptcy this year.

This can be a day that we can set our name in motion that says that this Congress is committed to keeping the family farms.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of this bipartisan legislation designed to help family farmers. H.R. 2211, reported favorably by a 32-to-0 vote of the Committee on the Judiciary, helps family farmers to help themselves. The legislation increases the chances that family farmers in financial distress will be able to keep their farms.

H.R. 2211, by making it easier for family farmers to file under chapter 13 of the Bankruptcy Code, benefits not only family farmer debtors but also creditors. Chapter 13 permits a debtor to pay creditors out of future income—rather than face liquidation. Herbert M. Graves, an Oklahoma attorney with substantial bankruptcy experience, explains the advantages of chapter 13 for venders and banks:

> The vender would be benefited because he would be able to obtain some partial repayment, if not in many instances full repayment. The banks would be greatly assisted because they are entrapped in a vicious cycle. Farms fail, loans must be written off, capital reduced and banks become insolvent. When banks become insolvent, invariably the local community suffers as a result of portions of deposits which cannot be covered under the FDIC regulations.

He goes on to observe:

> It occurs to me that if we set aside our concern for the farm-debtor for a moment, that in fact we have denied the unsecured creditor the opportunity to recoup some of his losses by virtue of our inability to assist farm-debtors in chapter 13.

In March, the chairman of our committee [Mr. RODINO] and the gentleman from Oklahoma [Mr. SYNAR], a member of our committee, introduced separate farm bankruptcy bills. Late that month the Subcommittee on Monopolies and Commercial Law held a detailed hearing on these two bills and encouraged witnesses to comment on the similarities and differences. Frank R. Kennedy, a distinguished visiting professor at the University of Iowa College of Law, encouraged us to con-

sider the possibility of "merging the bills to afford the farmer debtors wider options under both chapters 11 and 13." H.R. 2211, introduced in April, incorporates features of the earlier legislation and makes some additional modifications. Our subcommittee held a markup on this new bill on June 13, and our full committee marked up an amendment in the nature of a substitute on June 18. The chairman of our subcommittee and full committee [Mr. RODINO], the ranking minority member of our full committee and subcommittee [Mr. FISH], and the gentleman from Oklahoma [Mr. SYNAR], the author of one of the earlier farm bankruptcy bills, all deserve credit for their sustaining interest in this legislation and their efforts to perfect its provisions.

H.R. 2211 makes a number of modifications in chapter 13 of the Bankruptcy Code for family farmers. The definition of family farmer in section 1 of the bill requires that at least 80 percent of debt arise out of farming. A special provision excludes from aggregate debt for purposes of the 80-percent formula a loan for a principal residence located off the farm. The family farmer debtor can be an individual, partnership, or family owned nonpublic corporation. The bill limits chapter 13 eligibility to family farmer debtors owing less than a combined total of $1 million in secured and unsecurd debts, in contrast to current law's ceilings of $100,000 of unsecured debts and $350,000 of secured debts.

In addition to liberalizing chapter 13 access for family farmers, the bill introduces greater flexibility into chapter 13's time limitations. A family farmer's repayment period can extend up to 10 years with court approval in contrast to the 5-year limitation of current law. Bankruptcy Judge George C. Paine II, middle district of Tennessee, explains in a letter to the Judiciary Committee the benefits of an extended payback period:

> Since unsecured debts the debtor is unable to repay during the pendency of the plan are discharged, the extension of a Chapter 13 plan for family farmers would allow the farmer to repay more unsecured debt than presently allowed. The benefit to the creditors is obvious. The farmer, by paying back more debts, is able to retain dignity and self respect. I believe this is an important part of the farmer's traditional values.

Although current law requires a chapter 13 debtor to begin making payments within 30 days—unless the court orders otherwise—after a plan is filed, H.R. 2211 recognizes that a family farmer, often dependent on seasonal harvests to generate income, may need additional time. Section 8 of the bill gives the family farmer 15 days after the order for relief to request a hearing to set a different time for commencement of payments; the court then has 30 days within which to conduct a hearing and determine a reasonable time for payments to begin.

In contrast to the current chapter 13 bar to modification of home mortgage debt, H.R. 2211, as reported by the Judiciary Committee, permits modification if a family farmer's principal residence is located on—or within reasonable proximity to—a farm. H.R. 2211, as originally introduced, required the home to be located on the farm as a precondition to allowing modification of residential debt. I believed that such relief was too restrictive and favored extending protection to commuting family farmers.

The amendment I originally offered in subcommittee covered residential debt for family farmers who lived within 15 miles of their farms. The language, after several modifications, requires the home to be within "a reasonable proximity" to the farm. The revised wording, which I support, offers flexibility to commuters. They should not find themselves disadvantaged and at greater risk of losing their homes because they choose to live off their farming land.

Several provisions of H.R. 2211 relate indirectly to the new family farmer definition. A standing trustee's percentage fee—limited today to 10 percent of plan payments—is adjusted for family farmer cases to 10 percent of the first $450,000 and 3 percent of additional payments; the work involved in connection with payments in excess of the general chapter 13 debt ceiling of $450,000 is not expected to be very substantial. The protections for farmers in current law against involuntary liquidation and reorganization proceedings and involuntary conversions—of reorganization cases to liquidation cases and chapter 13 cases to either liquidation or reorganization cases—are extended to embrace family farmers; this is necessary because the bill carves family farmers out of the farmer definition.

Finally, H.R. 2211 gives farmers who seek to reorganize under chapter 11, 240 days rather than the current 120 days within which only they can file reorganization plans. The Judiciary Committee report notes:

> Farmers often have trouble formulating a chapter 11 plan of reorganization within 120 days after filing bankruptcy because this is not enough time for them to accurately evaluate how successful their next harvest season will be. H.R. 2211 extends the time . . . to afford the farmer more time to formulate a plan before creditors may propose a plan. This will also give the farmer additional time in which to prevent the filing of a liquidation plan by creditors. . . .

Any party in interest can file a plan if a farmer debtor does not obtain acceptances before 300 days after the order for relief—in contrast to the 240 day limitation of current law—and other conditions are met.

This legislation represents a bipartisan effort to modify our bankruptcy laws in response to the farm crisis. The bill, in my judgment, can discourage farm liquidations and benefit our economy. I urge my colleagues to join with me in supporting H.R. 2211.

GENERAL LEAVE

Mr. SYNAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2211, the bill presently under consideration.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

● Mr. RODINO. Mr. Speaker, because of the downturn in the farm economy today, increasing numbers of family farmers are being forced to file bankruptcy. H.R. 2211, farm bankruptcy legislation, will expand the availability of the chapter 13 wage-earner provisions of the Bankruptcy Code to more family farmers. It raises the chapter 13 debt ceiling for the family farmer, so that more family farmers will be able to file under this chapter of the Bankruptcy Code if they are forced to file bankruptcy.

Currently, a debtor cannot file under chapter 13 unless the debtor's unsecured debts are less than $100,000, and secured debts are less than $350,000. Under the bill, a family farmer can file under chapter 13 if the farmer's total secured and unsecured debts are less than $1 million.

Chapter 13 bankruptcy is easier, quicker, and less expensive than chapter 11 reorganization—under which most family farmers who file bankruptcy must now file. H.R. 2211 allows the family farmer to modify secured debt on the principal residence in certain instances, and gives the family farmer more flexibility in making plan payments to creditors. This should improve the family farmer's chances of keeping the farmland.

The bill also offers some relief to the farmer who chooses to file bankruptcy under chapter 11. It gives the farmer more time to file a plan of reorganization before creditors have an opportunity to file their own plan for the farmer.

The Committee on the Judiciary favorably reported the bill by a vote of 32 to 0.

H.R. 2211 will help the family farmers in this country. I ask your support for this effort.●

Mr. SYNAR. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of this particular legislation by Mr. SYNAR. It is much needed.

I suppose one of the saddest calls I have had this entire congressional year was from one of my strong sup-

porters and dear friends, a chairman of the board of county commissioners in one of the small counties in my district, who found himself in debt much beyond that which he was able to cope, and took the unfortunate and sad choice of commiting suicide.

Had this bill been in place, it might well have given him additional time to renegotiate and replan. Unfortunately, this bill was not in place at that time.

Therefore, Mr. Speaker, I strongly support this legislation, and ask for Members to do likewise.

Mr. SYNAR. Mr. Speaker, I yield 3 minutes to my friend and colleague, the gentleman from Missouri [Mr. GEPHARDT] whose leadership in this area has been instrumental to its passage.

Mr. GEPHARDT. Mr. Speaker, although the farm credit crisis has not been in the news in the last few weeks, the problem has not gone away. By most estimates, 10 to 15 percent of our Nation's farmers are so strapped that they may not have enough money to plant and pay family living expenses until the harvest is in.

Two-thirds of the $140 billion in farm debt is held by farmers whose debt to assets ratio is dangerously high. Many of the problems facing the farmer are no cause of their own; the strong dollar, bad export policy, inconsistent target pricing by the Government, have all contributed to their problems.

The legislation being offered today by the gentleman from Oklahoma [Mr. SYNAR], of which I was an original cosponsor, gives farmers a chance to reorganize their debt and keep their farms, and the Family Farmer Bankruptcy Reform Act does this through no cost to the Federal Government.

Today's Bankruptcy Code does not meet the special needs of family farmers. Today's farmers cannot reorganize under chapter 13 of the Bankruptcy Code for three reasons.

First, chapter 13 is solely for individuals, and many family farms are family-held corporations.

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Second, today's Bankruptcy Code limits chapter 13 to individuals of less than $350,000 in secured debt and $100,000 in unsecured debt. These limits are simply not sufficient for most family farmers.

Today's code requires debtors to make payments under chapter 13 within 30 days of filing a plan. For a farmer who may receive no income before harvest time, this is simply unrealistic.

The bill we have before us today addresses these problems, thus allowing family farmers the avenue of using chapter 13 to reorganize their debts.

The bill offers family farmers the important protection from creditors that bankruptcy provides while at the same time ensuring that farming lenders, rural banks, the Farmers Home Administration, farm implement dealers, seed companies, and others, receive a fair repayment.

The Family Farmer Bankruptcy Reform Act provides coverage to family farmers under chapter 13 by, first, allowing family farmers who have incorporated to file under this section; by increasing the debt limits for these farmers $2 million; by allowing family farmers 270 days to begin making payments; and, last, changing the income definitions, plan confirmation procedures and time limitations for repayment.

This legislation takes an important step toward working toward the revitalization of the agricultural sector of our economy. We now help feed a good portion of the world's hungry. The family farmer has been an important contributor to ensuring that we can provide for our neighbors at home and around the world. We need to provide them with the necessary help so that they can help themselves and, in turn, provide food for all of us.

I commend the gentleman from Oklahoma for his diligent work in making this bill a reality, and I am glad to join with him, and others, in passing and working on this legislation.

Mr. SYNAR. Mr. Chairman, I have no further requests for time, but I yield myself such time as I may consume to say, in conclusion, that I want to thank the gentleman from California and all my colleagues on the floor. I think that this legislation is an important statement we are making today, on behalf of all of those who have chosen agriculture as a way of life. We are saying: We are not forgetting you in America today, we are pressing forward with major farm legislation, but until that time comes, we are going to give you some hope that you can make it through the toughest economic times of your life.

Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. KINDNESS].

Mr. KINDNESS. I thank the gentleman from California for yielding this time, and I rise in support of H.R. 2211, along with my colleagues who have spoken previously.

Those of us from areas in which a great deal of agricultural enterprise and activity goes on are well aware that the American farmer does not need more credit, more money loaned to him. He needs time to pay off what he owes. In fact, there are many among my constituents in farming who feel that perhaps credit was pushed at them a little bit too readily over recent years, and they have found themselves in a position where, in order to appear to be competitive in the agricultural marketplace, they are up to their ears because of the high interest rates which have come along with that trend.

High interest rates indeed represent one of the American farmers' worst problems. There is some relief in sight, it appears, when the prime rate last week went down to 9.5 percent and for the first time in 6 or 7 years we have seen single-digit interest rates.

That is no immediate answer to the American farmer's problem out there on the family farm.

This approach, the approach of H.R. 2211, to providing some reasonable opportunity for American farm family enterprise to survive, is really the most innovative approach that I have seen come down the pike. Earlier this year we were asked to vote to extend more credit to American farmers under conditions that probably were not realistic, and it was too late for planting time, anyway. This is a far better approach for an interim bit of assistance to the American farmer.

If it does not work out well, I assume that the gentleman from Oklahoma, the primary sponsor of this legislation, along with many of the rest of us, will seek adjustments as are needed in future enactments of the law; but I would like to take just a moment to acknowledge the fact that the administration has expressed some considerable discomfort with H.R. 2211. Well, now, the administration—read that Office of Management and Budget, I suppose—from time to time does express discomfort about legislation that is good legislation, because they do not recognize it right off the bat sometimes. What they do recognize and what causes their discomfort is that the United States of America is a major creditor of the American family farmer. So they are worried about it. There is going to be more cost to the U.S. Treasury if debt repayment is stretched out, right? Well, especially, if interest rates as they are today, it might be better for Uncle Sam to get 50 cents on the dollar and get it now, and that would be as compared to stretching it out 5, 7, even up to 10 years, as would be allowable under this legislation.

That is the American farmer's problem in reverse.

Now, if the Office of Management and Budget stops to think about this legislation, as I am sure they will before it finishes its course through the Congress, they will recognize that they will collect more revenues if people are not put out of the farming business, they will collect more revenues if people are allowed to stretch out their debt and operate and continue to produce food and fiber for the American people.

They will recognize that the U.S. Treasury is really no worse off. Oh,

sure, there is some cost to having what is owed to Uncle Sam stretched out. But there will not be any cost, I project, in the long run, because the U.S. Treasury will also receive tax revenues from people who stay in an earnings position and are able to pay off their debts and those who receive the payment of their debts are going to pay more taxes than they would if they only got 50 cents on the dollar or 20 cents on the dollar.

Overall, Uncle Sam is going to be at least as well off in terms of dollars and cents. But American agriculture is going to be a lot better off if we stop forcing the family farmer off the farm. We as consumers are going to be better off. All of this does not sound like the philosophy of bankruptcy law, and I admit it is not, but bankruptcy law is established under our Constitution, by direct mandate in the Constitution, as one of the basic functions of the Federal Government to perform—to provide for the opportunity for people to carry out their economic enterprises without being put out of business.

That is what H.R. 2211 is intended to do and, I project, it will provide a great deal of help in that direction. I would urge, despite the discomfort that emanates from the Office of Management and Budget, that we take this one step in helping the American family farmer to stay on the farm, and let us move aggressively, more aggressively, to get those interest rates down further by working toward a balanced budget, friends. There is nothing more important that we can do for the American farmers.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I thank my colleague for yielding this time to me, and I would like to add my voice in support of H.R. 2211, the Family Farmer Bankruptcy Act of 1985.

H.R. 2211 is a straightforward bill that gives financially distressed family farmers a better opportunity to devise a repayment plan with their lender that will enable them to work their way out of debt.

The financial troubles facing our agricultural economy are not of the farmers' making. For a variety of reasons the farmer has seen export markets collapse and farm income decline while his costs—including interest—remain high.

The high interest rates of the late 1970's have not subsided in the farm belt. While the rest of America is experiencing a decline in interest rates, the cost of credit to many farmers has actually increased as farm lenders struggle to survive.

In addition to declining exports and increasing interest rates, the family farmer has had to face a rapid decline in agricultural land values over the past 5 years. The largest declines have occurred in the Midwest, where land values in States such as Iowa and Nebraska have fallen by as much as 40 percent since 1981, but the decline is not limited to the Midwest. Even specialty crop producers in California are now feeling the credit pinch that declining land values bring to the family farmer.

How many American businesses could afford to borrow the operating capital they need if the value of their equity had fallen by 40 percent in only 4 short years? I believe that very few would withstand such a devastating drop in the value of their asset base.

President John F. Kennedy once observed that "the farmer is the only man in our economy who buys everything he buys at retail, sells everything he sells at wholesale, and pays the freight both ways." Unfortunately, the economic situation observed by President Kennedy 20 years ago is still true today. As a result, low commodity prices, shrinking export markets, high interest rates, and tumbling land values have combined to force many farmers to the brink of bankruptcy.

The troubles currently plaguing the American farmer are not unfamiliar to the Members of the House. This March the House passed emergency farm credit legislation—which unfortunately was vetoed by the President.

The legislation before us today is not nearly as sweeping as the emergency farm credit legislation. H.R. 2211 is a simple change in the bankruptcy law that will extend a helping hand to the American family farmer at a time when he needs it most. This bill will allow farm families to remain in their homes while working to repay the mountain of debt that many of them have accumulated because of circumstances beyond their control.

H.R. 2211 will provide farm families up to 10 years to repay their accumulated debt of up to $1 million and make related changes in the Bankruptcy Code designed to allow farm families to work with their creditors to solve their financial problems with compassion and dignity. It will enable these families to remain on the land that they love and in the communities that they have been a part of for generations.

I commend Chairman RODINO and the members of the House Committee on the Judiciary for bringing this legislation before us today. I hope that my fellow Members of the House of Representatives will join me in supporting this legislation that will give thousands of American farm families one last ray of hope that they may continue to till the soil and provide food for the dinner tables of all America.

● Mr. FISH. Mr. Speaker, I welcome this opportunity to express my strong support for H.R. 2211, critically needed farm bankruptcy legislation.

American family farmers, facing serious economic difficulties, have been filing for bankruptcy in increasing numbers. The Judiciary Committee confronted the task of formulating modifications in our bankruptcy laws that would make the option of remaining in business more viable for these financially distressed agricultural producers.

No one benefits from unnecessary farm liquidations. When we provide a mechanism for family farmers to keep their farms and satisfy creditors out of future earnings, we help not only the farmers themselves, but also the many businesses located in farm communities around the country. I believe that the approach of this bill—with its emphasis on expanding access to chapter 13 of the Bankruptcy Code, the adjustment of debt provisions—will provide an alternative to liquidation for many family farmers.

There are three basic chapters of the Bankruptcy Code—each offering possible relief to debtors: Chapter 7 provides for liquidation of nonexempt assets and the distribution of the proceeds to satisfy or partially satisfy claims of creditors. Chapter 11 permits businesses, in specified circumstances, to reorganize and remain in operation. Chapter 13, designed primarily for wage-earners, permits individuals with regular income and limited debts to pay obligations out of future income.

The choice for the family farmer who rejects the liquidation option clearly is between chapters 11 and 13. Frank R. Kennedy, a distinguished visiting professor at the University of Iowa College of Law, explains the desirability for the family farmer of chapter 13 and the inadequacy of chapter 11:

> Chapter 13 is less expensive, permits more expeditious adjustment in the form of a confirmed plan, does not permit displacement of the debtor in operation and possession of the property of the estate, obviates the need for and the expense of a creditor's committee, eliminates the necessity for preparation of and hearing on a disclosure statement and the solicitation and procuring of acceptances of a proposed plan, relieves the debtor from the pressure of codebtors sued by creditors who are or will be provided for in the plan, relieves the debtor from the necessity of dealing with the complexities engendered by § 1111(b) (affording recourse and nonrecourse lenders the option to retain liens for the face amount of their obligations), and protects the debtor from the risk of the cram-down of a liquidation plan formulated by a creditor.

The committee appropriately decided to introduce greater flexibility into chapter 13—flexibility that will permit many family farmers to qualify. What obstacles did we remove?

First, chapter 13 debtors under current law must have unsecured debts totaling less than $100,000 and secured

debts totaling less than $350,000. These debt limitations for chapter 13 eligibility are inadequate for many family farmers who must borrow substantial sums. The Judiciary Committee decided that an aggregate ceiling of $1 million was more appropriate. The National Farmers Union described such a cap as "adequate to let most family-size farm operations qualify for chapter 13 * * *."

Second, current law does not permit corporations to file under chapter 13. Although the two predecessor farm bankruptcy bills introduced in March (H.R. 1397 and H.R. 1399) included family owned corporations without publicly traded stock in the family farmer definition, H.R. 2211 as introduced excluded corporations outright—irrespective of their size and ownership.

The subcommittee received no conclusive testimony on the number of incorporated farmers. One witness cited a figure of 2 percent of total farmers with a certain minimum income. The National Farmers Union, in a letter to the committee, referred to 7 percent of the Nation's farms. I felt, even assuming the accuracy of the 2 percent figure, that small incorporated farms should not be excluded from the potential remedies of the legislation. Many farmers have chosen to incorporate at the encouragement of farm groups such as the Farm Bureau, the Grange, and the National Farmers Union. State law in certain jurisdictions, I understand, also encourages farmers to make such a business choice.

In our subcommittee markup, I offered an amendment that alters the definition of family farmer to permit small, closely held farm corporations to utilize chapter 13 regardless of whether they issue stock. The amendment requires majority ownership by one family (including relatives of the family) but explicitly excludes corporations with publicly traded stock. The new provision avoids the anomalous situation of two farmers in identical economic distress with the sole proprietorship qualifying and the incorporated farm unable to qualify. Such a result would be unfair.

H.R. 2211 incorporates a farm related debt test in the family farmer definition. At least 80 percent of total debt must arise out of farming in order to meet the cutoff for eligibility. The earlier versions of this legislation, H.R. 1397 and H.R. 1399, require farm related income to exceed a specified percentage of gross income. The income approach, however, is flawed, because many family farmers must accept nonfarm employment in order to keep their farms. The debt test in H.R. 2211 is designed to ensure the only persons who have a principal occupation of farming get the benefits of the family farmer definition.

In our full committee markup, I offered an amendment modifying the language of the 80-percent debt test to address the situation of the farmer who lives off the farm and has a nonfarm related mortgage. To include that mortgage in debt computation may prevent a farmer from meeting the 80-percent test. Residential debt often is quite substantial and may represent more than 20 percent of total debt. A home mortgage, in the case of the individual who lives off the farm, has nothing to do with whether the individual is principally engaged in farming. My amendment, which the committee accepted, appropriately disregards home mortgage debt in this situation for purposes of the 80-percent debt test in the family farmer definition.

The Judiciary Committee has drafted legislation that makes chapter 13 of the Bankruptcy Code accessible to family farmers. The bill will permit a number of family farmers to avoid liquidation and save their farms. H.R. 2211, favorably reported by a 32-to-0 vote of the Committee on the Judiciary, merits the support of all Members of this body.●

● Mr. GUNDERSON. Mr. Speaker, I would like to take this opportunity to add my strong support to H.R. 2211, the Family Farmer Bankruptcy Act of 1985. The simple facts are that there are literally thousands of family farmers in America who, through no fault of their own, are experiencing financial stress. Declining land values, a strong U.S. dollar, and interest rates which remain too high have all taken their toll on net farm income.

Without a meaningful opportunity to adjust their debts over time, many of these producers will have no choice but to leave the farm altogether. And that sequence of events could very well spell disaster for American agriculture in the long run.

Now, some of these individuals have been able to take advantage of the FmHA Debt Adjustment Program [DAP]. Unfortunately, not all family farmers could meet the eligibility requirements of that program. Those financially troubled farmers who could not participate in that program are, for the most part, left with the reorganization provisions of the Federal bankruptcy laws if they want to stay in farming.

I would not be stretching the truth, however, to say that chapter 11 proceedings under the Bankruptcy Code are—at best—complicated and expensive. Chapter 13 wage-earner plans are clearly preferable. Regrettably, many family farmers simply are not eligible to file a chapter 13 wage-earner plan because their debts exceed the statutory ceiling for such actions and, rather than having regular income, they frequently are paid only during certain seasons of the year.

H.R. 2211 alters current law to permit family farmers to fully utilize chapter 13 proceedings by allowing regular income to include income received on an annual basis as well as by increasing the debt ceiling for chapter 13 actions to $1 million. Further, the repayment time is increased to up to 10 years for family farmers since they most often have a greater total debt to repay than the average wage earner.

Finally, the legislation under consideration makes numerous technical changes in the law—such as capping the payment due any trustee, allowing for greater modification of secured debts against a debtor's principal residence, and providing for greater flexibility in the date on which the first payment under any chapter 13 plan is due—so that procedural considerations do not preclude the participation of a family farmer in a wage earner plan.

In short, Mr. Speaker, they key word is "flexibility." During these financially trying times on the farm, we ought to ensure that the complexities and expense of using Federal laws are not the deciding factor in whether or not a family farmer stays in business. By modifying chapter 13 of the Bankruptcy Code to permit its use by those family farmers who need a simple and relatively inexpensive extension of time to meet their current obligations, we go a long way to meet that goal.

I, therefore, urge my colleagues to join me in supporting the enactment of H.R. 2211.●

● Mr. GLICKMAN. Mr. Speaker, I rise in strong support of H.R. 2211, legislation which would expand the availability of chapter 13 to family farmers by raising the debt limit of eligibility under current law.

We hear daily stories of rural businesses in trouble, rural banks going out of business and family farmers forced into bankruptcy. When family farmers are forced out of business, the ripple effect on the rural economy is devastating. It is imperative that a strong farm bill be developed to bolster prices for farm commodities to keep farmers in business, but in the short term we need to make sure the Bankruptcy Code doesn't force people unfairly and unnecessarily to give up their farms. Quite frankly, that is just what the present Bankruptcy Code does. This legislation would go a long way toward remedying that.

Chapter 11 of the Bankruptcy Code is designed to manage the liquidation of assets in a bankruptcy; chapter 13 is intended to govern the restructuring of debt in those cases, thereby keeping the business in operation. Chapter 11 is also more costly and time consuming. But, since chapter 13 is designed generally to help wage earners pay off their debts over time, it is available only for total debts up to $450,000. Today, with the high costs of farming

and the expense of borrowing, that ceiling very often excludes family farmers from being eligible for chapter 13.

The House Judiciary Committee, with strong support from both parties, has wisely reported to the House this bill to raise that limit to $1,000,000 for family farmers as defined by this bill. The bill will also allow an exception to the present requirement that mortgages not be included in a chapter 13 debt restructuring when the family home is on a farm. Without this provision, a farmer could in many instances not restructure the financing of his land which is generally his major debt. Furthermore, the bill would allow farm debtors 240 days, instead of the normal 120 days, to file a restructuring plan so the farmer can better evaluate his situation before putting a plan together. Further, this bill would allow 10 years, instead of the normal 5, for repaying debt to creditors.

Certainly, changing the bankruptcy laws is not the answer to our farm problem by any means. The Agriculture Committee, on which I serve, is working diligently to report out a farm bill which raises farm income. But it is very important at a time when 1 out of every 10 farmers is facing financial problems. This could very well help family farmers stay in business, and that will help keep farms from ending up in the hands of giant corporations.

I urge every Member of this House to support passage of H.R. 2211.●

● Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 2211, the Family Farm Bankruptcy Act. I am proud to be a cosponsor of this legislation with Congressman MIKE SYNAR, because I believe it can be a major step in the right direction to solving the farm crisis.

H.R. 2211 allows farmers to restructure their debt under chapter 13 of the Bankruptcy Code, which is currenty limited to individuals. As it is now, farmers who file for bankruptcy must do so under chapter 11, usually a long and complex process. Many farmers do not survive the process. This bill ensures that farmers stay in business by giving them 10 years to reorganize and get out of debt.

Mr. Speaker, this bill is different from other farm bills that we have passed because it does not give them more money, thereby increasing a debt that they will surely never get out from under, but allows them to escape the burden that is now choking them to death.

I wish to insert in the RECORD a Denver Post editorial in support of the bill:

[From the Denver Post, March 3, 1985]

THE SCHROEDER "FARM BILL"

U.S. Representative Patricia Schroeder shocked her colleagues last week by voting against her party's "easy farm credit" mission—seemingly a sure fire "motherhood" issue guaranteed to embarrass President Reagan.

But Schroeder was looking further down the road—even to agreeing with President Reagan about farm credit. The Denver Democrat said:

"Just giving them (farmers) more money puts them more in debt. What they need is a chance to reorganize."

She's right. Many farmers now take extra credit, recycle it through their local banks and wind up in default anyway. They need more substantial help.

In hopes of giving them that help, Schroeder is co-sponsoring a bill with fellow Democrat Mike Snyar, an Oklahoma congressman, to allow farmers to file for bankruptcy under Chapter 13 of the U.S. Bankruptcy Code.

Chapter 13 presently is limited to individuals who have misecured debts up to $100,000 and secured debts up to $350,000. It's designed for wage earners or small-business people, and generally is denied farmers for two reasons. Many family farms are corporations and they also exceed the debt limits of Chapter 12.

Representatives Schroeder and Synar would change Chapter 13 to allow incorporated farms to qualify; it would lift debt limits to $1 million and give farmers 10 years to reorganize and repay their debts.

The farmer would be protected by the bankruptcy court while he gets his debts in order. He couldn't be foreclosed at the option of one creditor. Any such decision would be up to the court.

The further advantage of the Schroeder-Synar approach is that it would take farm debt out of Washington and solve it without cumbersome recourse to tax funds. So it wouldn't be the "budget-buster" that some lawmakers are afraid of.

The likelihood is that Reagan is going to win his test of wills with Congress. His veto of the emergency farm bill will stand, and whatever credit measures emerge will be on the conservative side.

The Schroeder-Synar approach could be a good backup, however. And in any case, it deserves attention on its own merits as a useful addition to the arsenal of programs available to farmers.●

● Mr. WILLIAMS. Mr. Speaker, I rise in support of this much-needed legislation. Across America the agriculture economy continues to sink into depression. Farm foreclosures have reached proportions higher than at any time since the thirties. Falling land and equipment values continue to place more hard-working, efficient farmers at risk of being forced to either sell out or be foreclosed.

During the sixties and seventies, a generation of enthusiastic young farmers followed the advice of Government and bankers to increase the size of their operations. Commercial banks and Production Credit Associations were eager to loan money for more grain acres, more sheep, more cattle, more dairy cows, or more machinery. Farmers were encouraged to produce more, and become more efficient to feed a hungry world.

These same young farmers now face double jeopardy. On the one hand—while profits have shrunk—cash-flow demands have increased to support their families and to meet business obligations. On the other hand—continued liquidation of the most distressed operators has placed these larger more efficient producers in jeopardy because of falling asset values. They have larger gross incomes and larger debts but are not protected by the current provisions of chapter XIII of the Federal bankruptcy codes.

These farmers and ranchers who fall in the category of $350,000 to $1 million of debt are the ones addressed by this bill. By allowing them to file under chapter XIII we encourage them to continue to produce and prevent foreclosure. Allowing them to proceed now to foreclosure would mean further escalation of the downward pressure on farmland and machinery values, and compound farm credit problems. These foreclosures would certainly bring additional farmers and ranchers into peril as well as threatening failure of more commercial banks, Production Credit Associations, and Federal land banks.

This bill is good medicine for an ailing farm economy. It will slow the hemorrhage occurring in rural America today. It will conserve some of the lifeblood left in our farmers and ranchers. It will give a treatment of compassion to Americans fighting for a traditional way of life and food supply policy of this country. It will give them the first hope from this Congress that the Government is determined to provide some solutions to the problems which past and current policies have created.●

● Mr. ALEXANDER. Mr. Speaker, between 1979 and 1983 net farm income in the United States decreased 50 percent.

Farm residents in 1983 received, after taxes, an average per capita income of $6,917—considerably less than the $10,000 per capita income for nonfarm residents of our country.

Dire warnings about the precarious financial state of agriculture abound. The U.S. Department of Agriculture reports that approximately 13 percent of all farm operators have a debt/asset ratio of 40 percent or more. When the debt/asset ratio reaches 40 percent, economists say interest costs of the farmer begin to threaten his survival. What these percentages translate into is 419,000 financially stressed farmers with $109 billion in debt as of last January.

But even more important is the fact that there are 156,000 farmers with debt/asset ratios of 70 percent or more, representing $46 billion in debt and $26 billion in assets. This sort of situation is highly insolvent and indicates a near-term potential loss exposure facing lenders.

Mr. Speaker, these figures translate into incredible pain and suffering for farmers in my First District of Arkan-

sas, and farmers throughout this country.

Our gravest problem in agriculture is our reliance on export markets which we are losing because of the overvalued dollar. It seems the Reagan administration favors an economic policy which encourages imports but which discourages exports.

But changing a dangerous and foolish economic policy is a matter of years, and undoubtedly will require new leadership in the White House.

For the present, we are unfortunately limited to giving whatever small relief we can to the family farmer. My colleague, Mr. SYNAR, as chief sponsor of H.R. 2211—the Family Farm Bankruptcy Act of 1985—is leading the way in this effort to help the family farmer.

Farm foreclosures have reached epidemic proportions. This bill corrects certain inequities in existing bankruptcy laws, making it less likely that farmers will lose their farms.

H.R. 2211 would allow more farmers to pay off their debts with future earnings rather than by liquidating their current assets. Most farmers now must file under chapter 11 of the U.S. Bankruptcy Code, which has provisions allowing the forced sale of farmer's land by creditors. This bill would allow the family farmer—defined as a person whose debts are 80-percent farm-connected—to reorganize under chapter 13 of the code. Chapter 13 allows creditors to attach future earnings on a specified repayment schedule.

The bill also gives farmers up to 10 years to repay their debts, rather than the 3 to 5 years allowed under current law.

The Family Farm Bankruptcy Reform Act is designed to give family farmers facing bankruptcy a fighting chance to reorganize their debts and keep their land. The bill offers family farmers the important protection from creditors that bankruptcy provides while, at the same time, ensuring that farm lenders-rural banks, the Farmers Home Administration, farm implement dealers, seed companies, and others-receive a fair repayment.

Inefficient farmers left farming during the 1970's and those who remain are good managers who have been caught by unexpected economic circumstances. Often they need time more than additonal Government financial assistance. This legislation gives them precious time with no cost to the Government.

Mr. Speaker, as one of the orginal cosponsors to this act, I ask others in this body to join me in this small but significant effort to alleviate the plight of the family farmer.●

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. SYNAR] that the House suspend the rules and pass the bill, H.R. 2211, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1420

WAR RISK INSURANCE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 413) to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.

The Clerk read as follows:

S. 413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1294) is amended by striking "September 30, 1984" and inserting in lieu thereof "June 30, 1990".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 413 that was passed by the other body on June 6, 1985. This legislation deals with title XII of the Merchant Marine Act, 1936, and provides for insurance for vessels at risk due to the necessity of navigating in war zones.

This legislation was requested by the administration and I am pleased that we are able to respond to the request in a favorable manner.

Title XII of the Merchant Marine Act, 1936, generally authorizes the Secretary of Transportation to provide war risk and certain marine and liability insurance for the protection of vessels, cargoes, and crews when commercial war risk insurance cannot be obtained on reasonable terms and conditions. Such standby authority proved both necessary and effective in protecting the United States and its water borne commerce during World Wars I and II with total premium receipts in excess of losses paid.

Existing authority under title XII expired on September 30, 1984, and at the present time U.S.-flag vessels are without protection for loss by risks of war after termination of their commercial policies.

While the request from the administration was for legislation making permanent the title XII authority, section 1214 of the Merchant Marine Act, 1936, has generally limited title XII authority to periods of 5 years. The other body in reporting and passing S. 413 retained the traditional 5-year extension, and the authority, if this bill is enacted, will extend under the terms of the act to June 30, 1990.

The authority that the Secretary had, expired on September 30, 1984, and at the present time U.S.-flag vessels are withut protection against loss by risks of war at the termination of their commercial policies. Most, if not all, commercial policies provide that insurance terminates upon the outbreak of war, whether declared or not, between the major powers of the world or upon the hostile detonation of a nuclear device of war. Since it is unlikely that merchantmen will venture into areas that are likely to experience hostilities, the institution of standby insurance such as that which is provided under title XII of the Merchant Act, 1936, is essential and at this time urgent.

I urge your support for this legislation, which, I repeat, has no negative budget consequences.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 413, a bill to extend the authorization of the War Risk Insurance Program through June 30, 1990.

The War Risk Insurance Program, as contained in title XII of the Merchant Marine Act of 1936, is designed to furnish immediate protection for American merchant marine vessels against loss for vessels, cargoes, crew, and personal effects upon any hostile detonation of nuclear weapon or outbreak of war between certain major world powers. This emergency insurance coverage is necessary because commercial insurance policies contain automatic termination clauses in the event of such an occurrence. Without this standby Government protection, the waterborne commerce of the United States would surely cease at just the time the national security would most require it.

The War Risk Insurance Program is self-sustaining. The collection of binder fees and other receipts form the initial fund from which losses are paid during the first 30 days of hostilities. Based upon that loss experience, premiums are then established and collected. Experiences with the temporary insurance programs established during both World Wars found receipts exceeding outlays.

Mr. Speaker, S. 413 is noncontroversial legislation which is supported by the administration and reauthorizes a program which, technically, expired at the end of the last fiscal year. The failure of Congress to act at that time

in no way reflects upon the merits of the legislation. I repeat, I know of no opposition to the bill, and urge its adoption.

● Mr. BIAGGI. Mr. Speaker, I rise in support of S. 413. This bill extends provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 5 years ending June 30, 1990. This title expired on September 30, 1984.

Title XII of the Merchant Marine Act, 1936, authorizes the Secretary of Transportation, with the approval of the President, to provide war risk and certain marine and liability insurance for protection of vessels, cargoes, and crew life and personal effects when commercial insurance cannot be obtained on reasonable terms and conditions. The purpose of title XII is to maintain the flow of U.S. waterborne commerce, including the maintenance of essential transportation services for the Department of Defense.

War risk insurance was provided by the Government in both World Wars I and II, and proved effective in protecting the civilian and military commerce of the United States, with total premium receipts in excess of losses paid. Title XII of the Merchant Marine Act, 1936, was enacted at the outbreak of the Korean war in 1950. It was temporary legislation that would expire in 5 years. Congress has continued to extend the life of the title since then.

Government war risk insurance is necessary since commercial war risk insurance policies now in effect contain automatic termination clauses that cause insurance to terminate upon hostile detonation of a nuclear device of war or upon the outbreak of war—whether there is a declaration of war or not—between any of the following countries: United States of America, United Kingdom—or any other member of the British Commonwealth—France, the Union of Soviet Socialist Republics, and the People's Republic of China. Without Government war risk insurance, American vessels would be without protection against loss by risks or war after termination of the commercial policies. Ships and cargoes would not move without adequate insurance coverage.

The Maritime Administration in the Department of Transportation issues, for a fee, binders under which Government war risk insurance would attach immediately upon termination of commercial war risk insurance.

These binders give back-to-back coverage with the commercial policies and expire at the end of 30 days. At that time, premiums for the insured period would be fixed retroactively. Contracts for the ensuing period would be determined on the basis of the circumstances existing at that time.

An identical bill, H.R. 5505, was passed by the House on May 15, 1984 by a vote of 413 to 0. The Senate failed to act on the measure and it died with the adjournment of the 98th Congress.●

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the Senate bill, S. 413.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATION, FISCAL YEAR 1986

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 818) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end thereof the following:

"(f) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, to carry out the purposes of this Act, there is authorized to be appropriated $22,953,000 for the fiscal year ending September 30, 1986.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, fire daily ravages this country. Firefighters, many of whom are volunteers, answer over 2.3 million fires each year. The full magnitude of the national fire problem is something that is often not grasped by the public. Overall, the loss is staggering. Twenty-four people die each day from fire. They die in one's and two's, and oftentimes people in one part of the country do not stop to think of fire losses in other cities and the like, but nonetheless the annual deaths due to fire are roughly equal to having two jumbo jets, full of pasengers, crash in midair month after month after month after month.

The annual death total approximates between 6,000 and 8,000 people; it is nearly 20 times the amount of deaths of all the other kinds of natural disasters combined. When you go beyond thinking of the loss of life to the financial loss, that is staggering also. Over $5 billion of direct fire loss that must be insured and covered and resources that could be better used in more productive ways are simply lost to our economy each year. When you total the amount of other investment related to fire, you come up to a figure that this Nation allocates something in the range of $20-some billion a year to try to minimize the loss related to fire.

So the question is in view of a loss of life of 6,000 to 8,000 lives a year, and in view of an economic loss of $20-some billion a year, what is the proper Federal role? What should we be doing, as the House of Representatives, on the national level to support the efforts that are made on the State and local levels with respect to fire.

□ 1430

Eleven years ago there was the watershed report issued by a Presidential Commission called "America Burning." That National Commission on Fire Prevention and Control set us on a course of addressing in some way these kinds of losses on the Federal level. They called for a level of effort that we have never approached. We have topped out in these last 7 years at a level of effort of something in the range of $22 million to $23 million a year. In 1974, a bipartisan report set out a blueprint to address the fire problem which called for annual spending of $154 million. We have never approached that level because of the limitations on the Federal budgets and the restraint with which the Congress has approached this area, but it should serve to focus our attention, knowing that there is a blueprint for levels of effort far in excess for what we here propose to address a loss that is as deep and as significant as any economic and personal life safety loss that face in our society.

The Congress, noting that "losses of life and property and in fire are unacceptable," created the U.S. Fire Administration to administer a Federal campaign to stamp out fires in America in the wake of the 1974 report.

This agency was charged with promoting research in the causes of fire, with organizing a national data collection center on fire, and with providing assistance to State and local fire agencies in the training of firefighters, and with the development of national education efforts to promote awareness of fire prevention techniques.

I think at some point we have to stop to realize, particularly when we think about the loss of lives in fires, that more ofter than not, and we ought to be doing more research on this, more often than note the people who lose their lives have already lost them before emergency response reaches the scene. That means that so much of what we do in this area has to be developed in the context of preventing fires. It is not that fires just do not happen; they do not happen for a reason. We need to be providing the range of support that enables fires not to happen.

Today we consider the authorization of S. 818, which is the 1986 authorization for the Federal Fire Prevention and Control Act. This bill would continue the current level of effort. There is no increase. It is a steady freeze, as they say so popularly in this body, at $22,953,000 for the U.S. Fire Administration and the National Fire Academy, both of which are administered through the Federal Emergency Management Agency.

The bill that we bring you today reinstates $2 million at the U.S. Fire Administration, that was not at least initially supported by the administration in its budget request. That $2 million is supportive of programs for community volunteer fire prevention, so important in preventing the loss of life that would be lost before emergency equipment arrived, for firefighter health and safety toxicity studies, which includes studies to determine the long-range health hazards to firefighters, and the exposure of firefighters to immediate toxicity problems because of the kinds of materials that are now burning, and to provide other technical assistance to State and local governments for master planning efforts with Federal agencies to improve fire and emergency management.

In addition, there is $1.2 million that was not originally supported by the administration to provide travel stipends to the National Fire Academy programs. It is said that 25 percent of the people who we send to the National Fire Academy are from volunteer-based organizations. They have no supporting organization to send them there. They arrive on their own time, often on vacation, and they are among the 30,000 people who have passed through the National Fire Academy, taking back invaluable training and awareness in approaching the problem of fire to their communities that they would never have been exposed to had they not had the opportunity to go to the National Fire Academy at Emmitsburg, MD, and now to the center on the west coast that we will be starting.

So these funds seem critically important for the distribution and the outreach of what we have found in the National Fire Program and certainly should be recommended to all our colleagues.

Fire affects us all in ways which are hard to measure, and certainly efforts of this level, when you compare them to where the recommendations would have led us, can only be supported. I would urge all Members of the House of Representatives to join in the support of this bill. Nothing is more compelling, in my view, of all the programs that we see in the health and safety areas. We cannot leave the local firefighters alone to try to deal with this kind of a problem that is so important to our society, and you might say something on this level is the least that we could do to support them.

Mr. Speaker, I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have two bills up today, one on fire research and one on earthquakes. They have been facetiously referred to as the "shake and bake" pair of bills.

Mr. Speaker, S. 818 is another example of how we can save taxpayers' money and still fund vital research and development programs. The bill represents a total funding of level of $19.3 million—a reduction of $3.6 million from the fiscal year 1985 level.

This level is in line with the administration request for fiscal year 1986 and is also a level which the agencies involved say is adequate. Each year, life and property are lost in fires in my home State of New Mexico and throughout the country. Together, the National Bureau of Standards Research Center and the U.S. Fire Administration and the National Fire Academy lead the Federal effort in preventing and controlling loss of life and property due to fires.

Mr. Speaker, I urge approval of this bill. We are continuing vital research while saving money for taxpayers.

● Mr. FUQUA. Mr. Speaker, I rise in support of S. 818. The bill authorizes appropriations for the Federal Fire Prevention and Control Act in fiscal year 1986.

This bill would continue the current level of funding for public education, arson prevention, technology development, and firefighter training and outreach programs at the U.S. Fire Administration and National Fire Academy. Also, the bill reinstates full funding for the Travel Stipend Program, which pays for a firefighter's travel expenses to attend the National Fire Academy in Emmitsburg, MD.

Fire statistics bear out the need for continued support to reduce the national fire problem. Annually, fires in this Nation cause approximately 8,000 deaths, 300,000 injuries and over $5 billion worth of destroyed property. If one includes the total cost of meeting fire and building codes, installing protective systems, maintaining fire departments and insuring property, the total rises to a staggering $21 billion.

The national fire picture becomes more grim in light of arson statistics. There were more than 175,000 arson fires in this country last year resulting in 871 deaths and 3,595 injuries. The national direct property loss to arson is estimated at $1.23 billion per year. Indirect losses were estimated at about $15 billion. In cities across the Nation, from Seattle to the South Bronx, arson has become a national epidemic.

Since January 1, 1985, 328,000 acres of land in Florida have been destroyed by fire. Arson, followed by a long dry spell and lightening, have been listed as the main causes of the worst wildfire disaster in the State. The situation became so critical recently, that the National Guard was called out to support the efforts of the mostly volunteer firefighter force.

Except for large fire disasters like those that have occurred in Florida, the daily destruction due to fire goes almost unnoticed. Yet, fire has caused and will continue to bring death and destruction in our Nation. The programs authorized in this bill insure the most effective and coordinated investment in reducing the costly penalty of fire.

I urge my colleagues to support S. 818.

COMMENTS FROM FRED STARK, DIRECTOR OF TRAINING, FLORIDA STATE FIRE COLLEGE, OCALA, FL.

In a recent high-rise building fire in Orlando, Florida, lives were saved as a result of efficient fire ground operations. The officers in charge of this incident had received training on how to manage such incidents at the National Fire Academy. This and other types of training programs are not available in Florida and many other States. State and local fire service training systems cannot meet the needs and demands for advanced fire service training. The National Fire Academy, through the courses offered, is elevating the level of expertise of today's fire service managers in Florida.

In FY-84, Florida was second in the number of students attending resident courses at the National Fire Academy. We feel the taxpayers are benefiting directly from these training programs. The data on fires in Florida reflects significant reductions in deaths, injuries and losses in spite of an increasing number of incidents which goes with our population increase.

The types of building construction in Florida is changing and requires changes in the fire codes, in-house fire protection systems, and firefighting. These functions must be properly managed and directed. The Academy provides the opportunity for training today's and tomorrow's managers. Without the stipend contracts this needed training

will not be received. The National Fire Academy is one of a kind. We must keep the doors opened and opened wide.

FIRE STATISTICS

Fire statistics for the State of Florida show that while the incidents of fire increased by 15.2% from 1983 to 1984, deaths decreased by 28.6% and injuries were down by 5%. These figures were compiled by local jurisdictions and reported to the National Fire Incident Reporting System (NFIRS) of FEMA's U.S. Fire Administration.

FLORIDA FIREFIGHTERS AT NFA

FY 82, 239; FY 83, 331; FY 84, 294; FY 85, 307.

Over four years, 1,171 Florida firefighters have attended resident programs at the National Fire Academy.●

● Mr. BOEHLERT. Mr. Speaker, I rise in strong support of S. 818, a bill to reauthorize the Federal Fire Prevention and Control Act for fiscal year 1986.

On May 7, 1985, the Committee on Science and Technology voted to report S. 818 as amended commensurate with the fiscal year 1985 freeze level. This level of $22.953 million fully reinstated the Travel Stipend Program currently available to volunteer and standing fire departments. These funds permit firefighters to attend invaluable training classes at the National Fire Academy [NFA] in Emmitsburg, MD.

Recognizing the problem of over enrollment at the NFA, our committee supported a proposal for a NFA-West of Carson City, NV. Last month, FEMA announced the contract for this facility. However, no new appropriations have been made to accommodate this startup. Given this expansion and the importance of ongoing efforts, I believe any level less than the fiscal year 1985 freeze would be dangerously scarce. In fact, if it were not for the need to curb the Federal deficit, I would have advocated an increase of funding for the NFA.

Without Federal support for travel to NFA, firefighters such as those in the 25th District of New York would otherwise not benefit from such educational classes. Several fire departments in upstate New York, for example, are manned by volunteers who take time from either their personal vacations or from their full-time employment to attend these classes. They, as well as our full-time professional firefighters, are devoted 24 hours a day to assure that our communities receive the best possible protection from the loss of life and property due to fire.

S. 818 as amended also reinstated proposed cuts to the U.S. Fire Administration [USFA]. In the last 5 years, USFA has undergone severe reductions in staff. Currently, very little data analysis and fire safety programs can be operated by USFA. Much of this effort has been contracted out, with USFA taking on merely a management role. I therefore find any further suggestion of reduction in funding inappropriate.

Congress has a serious responsibility to support and encourage a strong Federal fire prevention and control effort. The role of arsonry in this Nation's death rate and adolescent misconduct is significant enough to warrant a consistent Federal commitment. In an era of pride for the volunteer forces of this Nation, we should do more than recommend funding cuts as a sign of support and encouragement.

I, therefore, urge my colleagues to adopt S. 818 as amended providing the resources for our Federal fire efforts to continue.●

Mr. LUJAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro. tempore The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the Senate bill, S. 818, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on S. 818 the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984 AUTHORIZATIONS

Mr. NELSON of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2800) to provide authorization of appropriations for activities under the Land Remote-Sensing Commercialization Act of 1984.

The Clerk read as follows:

H.R. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 609 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4278) is amended by striking "$75,000,000 for fiscal year 1985" and inserting in lieu thereof "$295,000,000 for fiscal years 1985 through 1989, of which not more than $125,000,000 shall be available for fiscal years 1985 and 1986,".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. NELSON] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. NELSON].

GENERAL LEAVE

Mr. NELSON of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2800.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1440

Mr. NELSON of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2800, a bill that will make possible the creation of a new industry in space and bring great benefits to all mankind.

This industry will be built upon the Landsat Research Program carried out at NASA.

There may be some question as to why we are moving this bill so quickly. It would be clear that the basic urgency arises from two causes outside the legislative process.

First, the committee is moving this legislation because we are facing the loss of our national capacity for land remote sensing. Landsat 5 was launched over a year ago and has an expected lifetime of about 3 years. So, before too long—maybe in 2 years—we will not have a Landsat. And, it takes typically 4 years to build a replacement.

Meanwhile, the French are moving ahead with their SPOT system which will compete with us.

So, we are already facing a data gap, and each day of delay makes that gap larger. The larger that gap becomes, the harder it will be for Eosat to become a commercial success, especially given the competition with SPOT.

Second, we have to consider Eosat. They began preparing to go into business more than a year ago. Since the end of the competitive process in which they were selected, Eosat has waited months for the Government to allow them to get started. Clearly, Eosat is not going to wait forever. We need to approve funding so they can start their race with SPOT.

The Committee on Science and Technology considered this subject very carefully in 1983 and 1984 in the course of passing the land Remote Sensing Commercialization Act of 1984. There is a voluminous record which, as Chairman FUQUA stated, was supplemented last week. The record fully supports both commercialization and also the limited—although adequate—financial support we are proposing in this bill.

Finally, let me just point out that the bill today adds to the existing authorization of $75 million for 1985 con-

tained in Public Law 98-365 a total of $220 million spread through fiscal year 1989. The bill also limits the total new authorization in fiscal years 1985 and 1986 to $50 million.

Mr. Speaker, I support the bill and recommend that it pass.

Mr. Speaker, I now yield to my colleague, the chairman of the full Committee on Science and Technology, the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 2800, a bill that will make possible the creation of a new industry in space and bring great benefits of all mankind.

This industry will be built upon the Landsat Research Program carried out at NASA.

"Landsat" refers to a series of experimental remote-sensing satellites that gather data useful in a wide variety of applications, including predictions of agricultural yield and crop health, water resources studies, mineral and oil exploration, mapmaking, and environmental monitoring. Five Landsat satellites have been funded by the Government, beginning with Landsat 1 in 1972 and concluding with Landsat 5, which was launched in 1984 and which is expected to remain operational through 1987.

Remote sensing is a natural candidate for private operations because so much of its use will be commercial and because private marketing efforts will expand the beneficial uses of remote-sensing data.

Numerous hearings were held in the 98th Congress on the commercialization of Landsat, which culminated on July 17, 1984, in the enactment of the Land Remote-Sensing Commercialization Act of 1984. The act provided for phased transition of land remote sensing to the U.S. private sector and authorized $75 million in fiscal year 1985 for Federal subsidies to enable the private operator to begin construction of a follow-on Landsat system.

Late in 1984, the Department of Commerce selected the Earth Observation Satellite Co. [Eosat], a joint venture of RCA and Hughes Aircraft, as the winning bidder in the competition provided for in the act.

In May 1985, OMB forwarded a $125 million appropriations request for Landsat commercialization to the Congress—$75 million as an fiscal year 1985 supplemental and $50 million as an fiscal year 1986 budget amendment.

Two weeks ago, the Science and Technology Committee held the last in a series of hearings which convinced us that the Eosat contract both meets the provisions of the law and also is in the best interests of the taxpayer.

H.R. 2800 would authorize sufficient funding for the entire Eosat contract—$295 million—of which $125 million would be available for fiscal years 1985 and 1986 as requested by the administration.

The $295 million would enable Eosat to build two satellites and a ground-receiving station, and to launch both satellites via the space shuttle, at a cost of $45 million. None of the money would be used for operating or marketing costs, all of which will be funded by Eosat out of revenue from data sales.

Mr. Speaker, this bill culminates several years of work by our committee. I urge all Members to support it.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill we bring you today is something which has been before us for several sessions of Congress. For some time now, many of us on the Science and Technology Committee have advocated commercialization of the remote land sensing system.

At the beginning of the last Congress, we buckled down and got serious about the issue. We had a long series of hearings which finally resulted in the passage of the Land Remote Sensing Act of 1984.

Since then, we have been waiting for the administration to complete the first steps in implementing that act and we're pleased now that the Eosat contract has been brought before Congress for our review. This bill will transfer Landsat to a partnership between Hughes Aircraft and RCA.

The hearings we had last week reaffirmed that the commercialization effort is moving in the right direction. The administration has submitted a request for a supplemental appropriation to fund this and has assured us that the total cost will be $295 million.

Mr. Speaker, I urge this body to approve this bill today. It's time we quit talking about this program and get on with it.

● Mr. WALKER. Mr. Speaker, I rise in strong support of H.R. 2800 which will amend the Land Remote Sensing Commercialization Act of 1984 to provide the full and final authorization for the transfer of the Federal Government's civil land remote sensing satellite system, known as Landsat, to a private company.

Two years ago the President announced his intention to commercialize the Landsat system. Last year the Congress passed the Land Remote Sensing Commercialization Act of 1984 which became Public Law 98-365. That law requires the Secretary of Commerce to enter into a contract for the commerical operation of the current Landsat system, and for the development and operation of a follow-on system. For reasons of fiscal austerity the Office of Management and Budget placed a $250 million limit on Federal financial support during the transition.

The Department of Commerce is ready to enter into a contract with Earth Observation Satellite, Inc., known as Eosat, which will provide for the construction of two new Landsats, a new ground station, commercial operation of the system in the future and necessary launch services on the space shuttle.

The total cost to the taxpayer under this contract will be $295 million which includes $250 million to Eosat for two new satellites, a new ground station, and all operational services, and $45 million to NASA for payload integration and launch services for the two new Landsats.

Because the Government was deeply involved in contract negotiations at the time, no request for this program was included in the fiscal year 1986 budget. However, on May 22, 1985, the President requested the Congress to provide a $75 million supplemental appropriation for fiscal year 1985 and an additional $50 million for fiscal year 1986.

Your committee of jurisdiction has carefully examined all aspects of this contract and has concluded that it is an excellent deal for the American taxpayer, and therefore, it deserves the full support of the Congress.

We received testimony from the Department of Commerce that it would cost about $325 million to build and launch a Landsat today. Under this contract the taxpayers will receive two new satellites which are to be the property of the United States, a new ground station, and the services necessary to operate the system for 10 years for the cost of a single new satellite.

Mr. Speaker, this legislation is sound. It authorizes the full amount of the funding for the Commerce-Eosat contract. It is the intention of your committee that no additional funding will be authorized or provided beyond what is agreed to in the contract and contained in this bill.

Finally, Mr. Speaker, we must move this legislation expeditiously since the funding for both fiscal years 1985 and 1986 is contained in the version of the fiscal year 1985 supplemental appropriations bill reported by the Appropriations Committee in the other body on June 13. The House version of that supplemental appropriation is silent on Landsat, but we expect the conferees to include the funding in the final version. Therefore, Mr. Speaker, I urge my colleagues to join me in supporting this highly worthwhile measure.●

● Mr. SCHEUER. Mr. Speaker, I rise in support of H.R. 2800.

Last week, the Subcommittee on Natural Resources and the Subcommittee on Space Science held a joint hearing to examine the Eosat contract which was described by the chairman in his opening statement. I am pleased

to say that the terms of the contract, as reviewed during that hearing, are satisfactory with respect to two crucial concerns of the committee members.

First, the contract does follow the spirit and the letter of the enabling legislation—that is, it satisfies congressional concerns regarding national security, international relations, and U.S. technological leadership.

Second, the proposed contract is a good deal for the U.S. taxpayer. Under the Eosat contract, a U.S. land remote-sensing capability will be maintained by the private sector at less than one-half the cost of a Government system. More importantly, the contract creates a new U.S. high-technology industry—an industry which will generate jobs, enhanced productivity, and public benefits for years to come.

One issue did arise during that hearing which at the time caused me some concern. Since Eosat is a joint venture of RCA and Hughes Aircraft and since Hughes was purchased within the past month by General Motors, I questioned the extent to which Hughes' new owners were committed to making land remote sensing a commercial success. However, I have since been assured, during conversations with General Motors' officials late last week, that GM fully intends to support Hughes in the aggressive marketing efforts that will be necessary to put commercial remote sensing on a sound footing. This assurance is an important one, since Eosat faces some very tough international competition in remote sensing from the French and the Japanese.

Mr. Speaker, we stand today at the birth of an entirely new U.S. high-technology industry in remote sensing. The process of Landsat commercialization, over the past 2 years, has been marked by an unusual degree of cooperation between industry, the administration and the Congress. I would like to commend in particular the outstanding contributions that the gentleman from Florida [Mr. FUQUA], the gentleman from New Mexico [Mr. LUJAN], the gentleman from Missouri [Mr. VOLKMER], and the gentleman from Florida [Mr. NELSON] have made. The bill before us today represents the culmination of their efforts.

It is a good bill, and I urge my colleagues to support it.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. NELSON] that the House suspend the rules and pass the bill, H.R. 2800.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EARTHQUAKE HAZARDS REDUCTION ACT AUTHORIZATION, 1986 AND 1987

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 817) to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1986 and 1987, and for other purposes, as amended.

The Clerk read as follows:

S. 817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end thereof the following:

"(6) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, for the fiscal year ending September 30, 1986, $5,596,000, and for the fiscal year ending September 30, 1987, $5,848,000.".

SEC. 2. Section 7(b) of such Act (42 U.S.C. 7706(b)) is amended by striking ", and" immediately after "1984" and inserting in lieu thereof a semicolon, and by inserting $35,044,000 for the fiscal year ending September 30, 1986; and $36,621,000 for the fiscal year ending September 30, 1987" immediately before the period at the end thereof.

SEC. 3. Section 7(c) of such Act (42 U.S.C. 7706(c)) is amended by striking "and" after "1984;" and by inserting "; $27,760,000 for the fiscal year ending September 30, 1986; and $29,009,000 for the fiscal year ending September 30, 1987" immediately before the period at the end thereof.

SEC. 4. Section 7(d) of such Act (42 U.S.C. 7706(d)) is amended by striking "and" after "1984;" and by inserting "; $499,000 for the fiscal year ending September 30, 1986; and $521,000 for the fiscal year ending September 30, 1987" immediately before the period at the end thereof.

SEC. 5. Section 5(b)(2)(E) of such Act (42 U.S.C. 7704(b)(2)(E)) is amended to read as follows:

"(E) compile and maintain a written plan for the program specified in subsections (a), (e), (f), and (g), to be submitted to the Congress and updated at such times as may be required by significant program events, but in no event less frequently than every three years;".

SEC. 6. Section 5(b)(2) of such Act (42 U.S.C. 7704(b)(2)) (as amended by section 5 of this Act) is further amended by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) make, in cooperation with the United States Geological Survey, the National Science Foundation, and the National Bureau of Standards, an annual presentation to the appropriate committee of the Congress within sixty days after the end of each fiscal year for the purpose of communicating any events and any programmatic requirements deemed significant by the National Earthquake Hazards Reduction Program; and

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, in the United States when we think of earthquakes, we usually think of California. That's because in geologic terms California is a realm of earthquakes: It is part of the Ring of Fire, the belt of earthquakes and volcanic activity that circles the Pacific. The San Andreas Fault, which scars California from north to south, is one of the Earth's great emblems of seismic activity.

In human terms California is the most populous State in the United States and a center for many of the Nation's critical technology-oriented industries; 10 percent of the Nation's population and industrial resources are there, and 85 percent of these resources—or 8.5 percent of the Nation's total—are in a strip of 21 counties along the continental margin that are well within the seismic domain of the San Andreas.

However, it may come as a surprise to learn that since 1700 some 3,500 earthquakes have been felt east of the Mississippi. Although earthquakes are about 10 times more common in California than they are in the Eastern United States, damaging earthquakes do constitute a significant hazard in the Eastern United States. Historic examples of violent earthquakes occurred in Charleston, SC, on August 31, 1886, and in New Madrid, MO, area during the winter of 1811-12. Extensive damage and 60 deaths were caused by the South Carolina event, and widespread dislocation of the ground surface occurred in the Mississippi River Valley area. These earthquakes were felt over much of the Eastern United States—a characteristic of major eastern events.

Although there are no recent strong earthquakes in the East, the fact is that most geologic elements of the Charleston area are similar to those in other parts of the East raises the real possibility that major earthquakes with long recurrence intervals may occur in our part of the country.

Clearly, the threat of earthquake hazards are not limited to California and the East, all or parts of 39 States lie in regions classed as having major or moderate seismic risk. Within these States 70 million people are exposed to earthquake hazards. Eight years ago, Congress recognized the threat of catastrophic losses of life and property posed by the earthquake hazards in the United States and enacted the Earthquake Hazards Reduction Act.

The Earthquake Act established a National Earthquake Hazards Reduction Program [NEHRP]. The Federal

Emergency Management Agency [FEMA] has primary responsibility to plan and coordinate this effort, and to assist State and local governments with earthquake mitigation and preparedness; the U.S. Geological Survey [USGS] conducts and sponsors research on earthquake prediction, induced seismicity and evaluation of geologic hazards; the National Science Foundation [NSF] sponsors basic and applied research on earthquake processes and phenomena, earthquake engineering and societal response; the National Bureau of Standards [NBS] contributes research on performance criteria and supporting measurement technology for earthquake resistant construction.

The total authorization level for fiscal year 1986 is $68.899 million, which is equal to the President's fiscal year 1986 request. This bill reduces the U.S. Geological Survey's authorization level by about 4 percent from the current level of effort—$36.554 million to $35.044 million. Also the bill maintains the programs at FEMA and NSF at the current level, and reinstates the program at the Center for Building Technology at NBS. For fiscal year 1987, authorization levels are set at 4.5 percent about the fiscal year 1986 levels.

I wish to thank the chairman and members of the Committee on Interior and Insular Affairs for helping to bring this bill to the floor.

As recognized by the Congress almost a decade ago, earthquakes are a national problem. With each passing year, both the population and development of vulnerable areas are increasing.

I urge my colleagues to support S. 817.

□ 1450

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 817 funds fundamental scientific research efforts in understanding the process that is involved in earthquakes, with the goal of better engineering to minimize the effects and the goal of better prediction.

In addition, it provides a mechanism by which the Federal, State, and local governments can coordinate and use the resources to prepare the respond to an earthquake catastrophy.

The bill not only is in line with the administration's request for 1986, but it also represents a reduction of $1.6 million over the fiscal year 1985 level. I not only welcome the savings to the taxpayers, but I also welcome the continued research into the problems with earthquakes.

My home State of New Mexico has been the victim of some earthquakes, and although we have not felt the tremors of a major disaster, I feel better knowing we are continuing with research on this problem.

The bill represents reductions in both fiscal years 1986 and 1987 levels approved by the Senate and this bill has also cleared both the Science and Technology Committee and the Interior Committee. It represents a level of funding which the agencies have said is adequate and also represents a savings for the taxpayers.

So, Mr. Speaker, I urge approval of this bill.

Mr. WALGREN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, I thank the chairman of the subcommittee for yielding.

Mr. Speaker, the bill, S. 817, is of utmost importance. It coordinates some four agencies; the Geological Survey, the National Science Foundation, the National Bureau of Standards and also FEMA, the Federal Emergency Management Agency, in carrying out a national program.

It has been pointed out by the able gentleman from Pennsylvania that we tend to think when you ask people where earthquakes occur, they generally think of California, and that certainly is not the case. In the last fiscal year we had two earthquakes happen in the United States, one in south-central Idaho and one in the central Adirondack Mountains in New York State, so they are not just limited to one region of the country. We all have potential devastating effects and if we can learn more about earthquakes, I think it would go a long way toward not only saving lives, but also very valuable property.

I also want to thank the chairman of the subcommittee and the ranking minority member on the subcommittee and the gentleman from New Mexico [Mr. LUJAN] on the full committee for bringing this bill to the floor and also to the Interior and Insular Affairs Committee for their cooperative activities in reporting the bill and working with us on it.

Mr. Speaker, I rise in support of S. 817. The bill authorizes appropriations for fiscal year 1986 for the Earthquake Hazards Reduction Act of 1977.

As is well known, our Nation needs to continue a Federal earthquake program. The Federal Emergency Management Agency [FEMA] currently assesses a 2- to 5-percent probability per year of a catastrophic earthquake in California, and greater than 50 percent in the next 30 years. Such an event could cause $15 to $70 billion in direct property damage and 3,000 to 13,000 fatalities. Proper prediction and response planning would substantially reduce these losses and provide for rapid and economic recovery of the impacted community. The U.S. Geological Survey, National Science Foundation, National Bureau of Standards Center for Building Technology and FEMA have important roles in carrying out the National Earthquake Hazards Reduction Program.

California is only one of many sites where earthquakes may occur. For example, in fiscal year 1984, earthquakes hit south-central Idaho and near Blue Mountain Lake in the central Adirondack Mountains of New York. Perhaps the most violent earthquakes of record in the United States occurred at New Madrid, MO, in 1811 and 1812, which changed the course of the Mississippi River and stopped clocks as far away as Boston. Another event of large magnitude took place near Charleston, SC, in 1886. Geologists believe that earthquakes are likely in more than 30 States, although the probability in any one spot is much less than that in the Pacific States.

This bill reduces only slightly the U.S. Geological Survey's monitoring and prediction activities, reinstates the seismic codes and standards effort of the Center for Building Technology at the National Bureau of Standards, and maintains the current level of earthquake engineering and fundamental research at NSF and leadership responsibilities and preparedness planning activities at FEMA. For fiscal year 1987 authorization levels are set at 4.5 percent above the fiscal year 1986 level.

I wish to thank the chairman and members of the committee on the Interior and Insular Affairs for helping to bring this bill to the floor.

A major earthquake is rare and yet certain—only the exact timing is in doubt. State and local officials and scientists have made us well aware that we cannot afford to lose momentum in the National Earthquake Hazards Reduction Program. The National program authorized in this bill ensures the most effective and coordinated investment in reducing the costly penalty of the hazards associated with earthquakes.

I urge my colleagues to support S. 817.

Mr. LUJAN. Mr. Speaker. I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I was a bit startled yesterday when I opened the Washington Post and found that a town in Missouri's Eighth Congressional District was featured in Ripley's Believe It Or Not! The town was New Madrid, and what the anecdote I am referring to concerned was that New Madrid, MO, and the surrounding area were wrecked by a series of three earthquakes between 1811 and 1812 so severe that churchbells actually rang in Richmond and Boston, and the Mississippi River flowed in a northerly direction for several hours. It went on to say that New Madrid is hit by an earthquake that can be detected by humans on an average of once every

48 hours. What it didn't say is that New Madrid and the surrounding area are hit by earthquakes that can be detected by instrumentation several times every day, 365 days a year.

We often hear of the San Andreas fault due to the fact that California is heavily populated and because San Francisco was hit by a severe earthquake at a time when it was highly developed. Well, southeast Missouri and the surrounding area were not heavily populated or highly developed in the early 19th century, but they are now and experts tell us that another very serious quake could hit that area at any time.

The point I want to make is that earthquake protection is a very serious matter for many geographic areas of the country. We must all work together to prevent the loss of lives and to protect property.

I would prefer to have the chance to vote on the version of this bill that was reported by the Interior and Insular Affairs Committee, because I would like to have seen the U.S. Geological Survey funded at the 1985 level. Be that as it may, I rise in strong support of S. 817 and I urge my colleagues to cast their votes in favor of this bill.

Mr. Speaker, I include an article by columnist George Will that appeared in the August 16, 1984, edition of the Washington Post:

[From the Washington Post, Aug. 16, 1984]

THERE'S REASON FOR TREMBLING

(By George F. Will)

BERKELEY, CALIF.—Sensible citizens consider modern life altogether too full of incident, and they may become cross with Prof. Bruce Bolt because he says the earth is going to heave beneath our feet. In fact, were our feet sufficiently sensitive—and thank God they are not—we would, he says, feel it heaving constantly.

Bolt is a seismologist. His science is of intense interest in California, and in New Madrid, Mo., the site, around New Year's, 1811-12, of several of America's severest quakes. They temporarily reversed the flow of the Mississippi, altered its course and caused church bells to ring in Boston.

Today about a million people live in the zone of maximum vulnerability. Quakes of the 1811-12 scale would damage St. Louis, Little Rock, Nashville and parts of seven states. Because quakes are rarer there than in California, building codes are less strict. The rarity is ominous. Geological tensions are building in that zone, and a sudden adjustment may be overdue.

The New Madrid quakes were approximately 8 on the Richter scale. The Alaska quake of Good Friday, 1964, was 8.4. The 1906 San Francisco quake was 8.3. The scale is logarithmic: the San Francisco quake was 900 times more powerful than the 6.5 quake that in 1983 left 30 percent of the houses in Coalinga, Calif., uninhabitable. The Coalinga quake resulted from some faults not previously mapped, raising the question of how many more unknown faults in California could cause quakes of 6 severity.

There are 2,500 to 10,000 measurable quakes a day, worldwide. In California there are about 30 a day strong enough to make a squiggle on seismographs here and elsewhere. (Instruments can measure ground movements the size of a molecule of oxygen). The problem is that California has chosen, improvidently, to sit on two plates of the earth's crust, one of which is moving south while the other heads for Alaska at a rate of two inches a year.

No good can come to this, but there is no reasoning with these plates. And there is no predicting when tension built by the friction (rocks under great pressure are elastic enough to store energy like springs) will produce sudden slippage.

Quakes kill thousands of people each year. One in China in 1976 killed an estimated 400,000. It is a science certainty that large quakes are coming to the United States, Japan and elsewhere. But, Bolt says, predicting times as well as places is a science in its infancy. Chinese sources claim that an evacuation of a city, in response to correct prediction, saved 100,000 lives in 1975. In 1981 an inaccurate prediction caused panic in Peru.

For several days after a serious quake there might be no effective civil authority to allocate medical and rescue resources. So there are large stakes in the scientists' search for patterns of premonitory events. Bolt knows that by predicting where and how much the earth may move, measures can be taken (concerning the architecture of schools, distribution systems for water and power, dams, bridges and other matters) that will mean that when the pieces are picked up, there will be fewer pieces than there might have been.

The Lisbon earthquake on All Saints Day, 1755, was an important event in the history of the European mind. It killed thousands of persons in churches, and thousands more who, fleeing to the seashore, were drowned by a tidal wave. It raised doubts about the beneficence of the universe and God's disposition toward the 18th century.

Seventeen days later, in Boston, a quake stopped clocks and killed fish in the harbor. In 1886, Charleston, S.C., shook for eight minutes, and 60 persons died. Clearly, seismology, with its predictive potential, is a practical matter. But Bolt, a dry and laconic Australian, is relaxed. Once must be when the stakes of one's investigations are large, but the events one is investigating are beyond control and, pending the accumulation and sifting of vast quantities of evidence, are unpredicatable.

Bolt has, as a good scientist is apt to, a philosophic turn of mind, and his work has potentially cosmic reverberations. Earthquake waves bouncing around the earth's interior reveal much about the planet's structure, and hence are suggestive about its origins. Thus seismology serves cosmology by producing clues about the "big bang" or whatever it was that produced the universe, and all matter, including the small quaking fragment on which we travel.

Mr. WALGREN. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. MOLLOHAN], representing the Interior and Insular Affairs Committee on this side.

Mr. MOLLOHAN. Mr. Speaker, as the gentleman well knows, the Committee on Interior and Insular Affairs shares jurisdiction with the Committee on Science and Technology on the Earthquake Hazards Reduction Act. We are pleased to join with you today in support of S. 817, legislation to authorize appropriations for the programs under the act for fiscal years 1986 and 1987.

While we in the Interior Committee are concerned with the whole National Earthquake Hazard Reduction Program, out of the four agencies involved in this effort, we are particularly interested in the work of the U.S. Geological Survey.

In this regard, the bill before us would authorize $35,044,000 for fiscal year 1986 and $36,621,000 for fiscal year 1987 for the Survey's contribution to the Federal Earthquake Program. While this amount is a mere $441,000 above the administration's fiscal year 1986 request for the USGS, it is, in fact, a reduction of $1,510,000 from the fiscal year 1985 enacted appropriation level. We in the Interior Committee, as our colleagues on the Science and Technology Committee, are mindful of the need to restrain Federal spending.

However, with respect to the USGS, we find that the authorization contained in the bill before us will allow the agency to continue with its earthquake related studies in seismology, geology, geophysics, as well as in soils engineering.

I believe our friends from California are well aware that the threat of a catastrophic earthquake in that State is every-present. I would assure them that this legislation will enable the Survey's seismographic stations in California, as well as in Alaska, Utah, Nevada, and Washington to continue to operate. It is essential that the monitoring networks be maintained and this legislation will enable the USGS to fulfill its mandate.

It should be noted that this bill authorizes the same total amount for fiscal year 1986 as the administration's request, and is, in fact, a reduction from the levels contained in the version of this bill passed by the other body. Be that as it may, we have diligently sought to insure that the USGS will not fail to serve the public interest in its efforts in the Federal Earthquake Program.

● Mr. BOEHLERT. Mr. Speaker, I rise in strong support of S. 817 as amended, a bill to reauthorize the Earthquake Hazards Reduction Act for 1986 and 1987.

I wish to thank my colleagues on the Committee on Interior and Insular Affairs for their expeditious manner in clearing this bill for floor action under suspension of the rules.

S. 817 as amended was jointly referred to the Committee on Science and Technology and the Interior Committee. The funding level which we are asking the full House to adopt are those accepted by the Science Committee on May 7, 1985.

S. 817 as amended accepts the overall funding levels requested by the ad-

ministration for the Earthquake Hazards Reduction Act. However, the distribution of funds to the National Bureau of Standards [NBS] permits the reinstatement of the Center for Building Technology—$0.475 million. This is consistent with the intention of the full House when the NBS reauthorization for 1986 was voted at the fiscal year 1985 freeze level on April 17, 1985.

S. 817 as amended funds the Federal Emergency Management Agency [FEMA] at the request of $5.596 million. The U.S. Geological Survey [USGS] was increased by approximately $500,000 above the administration's request. The request would have decreased USGS activities by $2 million.

The Committee on Science and Technology has expressed, on several occasions, concern that the earthquake program be recognized as and managed as a national mitigation and reduction effort. While the frequency of earthquakes may be substantially less in the Eastern United States, the consequence of the same magnitude earthquake may be far more devastating in the east than on the west coast.

In addition, I specifically would like to recognize and commend USGS for their earthquake programs and would support a comprehensive effort on the part of the U.S. House of Representatives to reinstate any pay and/or administrative cuts borne by our Federal R&D agencies.

Finally, as the differences between the House and Senate numbers are relatively minor, I would hope that the two Chambers could work swiftly to finalize this reauthorization.●

□ 1500

Mr. WALGREN. Mr. Speaker, I have no further requests for time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the Senate bill, S. 817, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

IMMIGRATION REFORM

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous material.)

Mr. RICHARDSON. Mr. Speaker, nowhere on the congressional platter for this calendar year is the issue of immigration reform.

Mr. Speaker, I think it is critical that the Congress give immigration reform legislation a greater priority and that this body act on immigration reform legislation this calendar year.

As chairman of the Congressional Hispanic Caucus and as an individual Member of Congress, I pledge my willingness to work for a bill which is not only effective and fair, but has a real potential for enactment. Toward this end I have met with Speaker O'NEILL to express my views.

Mr. Speaker, there is a foreign policy dimension to the immigration issue that we have not yet effectively considered. Such initiatives, primarily with the Government of Mexico, could include: First, a free trade and coproduction zone along the United States-Mexican border; second, a United States-Mexican bilateral commission; third, a joint United States-Mexico development bank; and fourth, a multilateral commission on immigration.

Mr. Speaker, the Congress should act on immigration legislation expeditiously this calendar year.

Mr. Speaker, I include my testimony before Senator ALAN SIMPSON's Judiciary Subcommittee, as follows:

Mr. Speaker, I thank you for this opportunity to appear before you today to discuss S. 1200, the Immigration Reform and Control Act of 1985.

I am not here today to endorse your bill, Mr. Speaker, for I believe, as I have said before, that it is regressive, punitive, and above all, lacking compassion and fairness, elements which have for so long represented the essence of this country's traditional immigration policy. Nor Mr. Speaker, am I here only to criticize and nay say. Rather, I am here to offer what I hope are constructive comments, and to pledge my willingness, both as an individual and as chairman of the Hispanic Caucus, to work for a bill which is not only effective and fair, but has a real potential for enactment. Toward this end I have met with the Speaker of the House to encourage his active participation in this issue and to garner his assurance of expeditious action in the House of Representatives.

Immigration reform has consumed the better part of two Congresses, hundreds and hundreds of hours of Member and staff time, and before that, years of work by the select commission. It is an issue of great national importance with international ramifications, and yet it eludes resolution. The question of the hour is why? Why can we not seem to find the right combination of provisions that will ensure resolution of a problem that screams to be solved.

The immigration policies of the United States have traditionally been premised on a humanitarian view of our role in the world; that inherently we are a compassionate people who with open arms have welcomed many differing peoples into this country to begin a new and better life; that we are a fair people respecting the rights of all. That's not to say that there are not limits to our ability to realistically provide for all who wish to come here—for there are limits. Nor, Mr. Speaker, is that to say that illegality should be condoned—for it should not. Nor is that to say that we should not have an effective enforcement policy to ensure that our immigration laws are enforced, and that the integrity of our borders is maintained—for we should. But, Mr. Speaker, it is my view that we have, to the detriment of our joint goal of immigration reform, placed too heavy an emphasis on the enforcement side and not a sufficient emphasis on our humanitarian tradition. In other words, our efforts to date have failed to sufficiently balance these important yet often conflicting goals. Mr. Speaker, we need to again struggle to find that balance.

I know that sanctions are abhorrent to many, many people, and I, too, am not without fear that they will be misused. While I am willing personally to consider the imposition of sanctions, as a necessary element of a balanced package, I am not willing to do so unless the more humanitarian provisions are equally included. Consistent therewith I would respectfully suggest that the following provisions be considered for inclusion in any balanced package.

First, there must be an honest recognition that the fears and realities of discrimination are very real and very frightening to many people. You and I, Mr. Speaker, may not, in fact, sense this anxiety, but many do, and if we are to achieve a balanced bill we must be cognizant of these fears and provide real statutory protections and not just promises of protection.

Second, there must be established a fair and equitable legalization program which will run concurrently with any initiation of employer sanctions. To do less is to deny the acting premise of the select commission itself, that legalization is a realistic response to the problem of illegal aliens. The importance of this synergetic relationship was clearly set forth during last year's consideration of H.R. 1510 by the former Attorney General of the United States, Hon. William French Smith, in his testimony before the Subcommittee on Immigration, Refu-

gees, and International Law of the Committee on the Judiciary of the U.S. House of Representatives, and I quote:

This bill would provide an opportunity to acquire legal status for those illegal aliens who have shown a commitment to becoming permanent members of our society. It is a sensible and humane approach. Although some have criticized legalization as a reward for lawbreakers, it represents a practical decision that is consistent with effective law enforcement. *The failure to include such a legalization program would aggravate enforcement of employer sanctions".* (Emphasis added.)

Mr. Speaker, I submit that S. 1200, for all practical purposes, has no legalization program and has, in fact, turned the relationship between legalization and effective enforcement of employer sanctions, deemed so important by Attorney General Smith, on its head. Realistically, a legalization program which becomes a reality only at some time in the future, and then only when the following finding is made, and I quote, "[p]rograms of the Federal Government are in effect, and have adequate resources, to control substantially illegal entry of aliens into the United States, to prevent and deter substantially violations of the terms of entry, and to eliminate substantially the employment of unauthorized aliens in the United States" (section 201(c)(3)), is no program at all. The reason is, as Attorney General Smith stated, that without a legalization program, enforcement of employer sanctions would be aggravated. The reason he gave for this is that the continuation of this illegal population would "divert important resources of the Immigration and Naturalization Service at precisely the time when its enforcement priority should be effective implementation of employer sanctions" and therefore, Mr. Speaker, you cannot have effective sanctions until you have a legalization program and you cannot have a legalization program until you have effective sanctions. I believe it becomes readily apparent that not only will there never be a legalization program under S. 1200, and if Mr. Smith is correct in his analysis, there also will not be effective employer sanctions. I am personally saddened and disturbed by this nonapproach to legalization. The reason for my discomfort is that to ignore legalization as an essential element of immigration reform is to totally disregard the humanitarian side of this issue. As you know, many undocumenteds currently in our country have been in the United States for years. They have contributed their energies and productivity to this country. They are law-abiding people who enrich our society with their hard work, cultural heritage and commitment to family. The nonapproach of S. 1200 to legalization not only turns our collective national back to these people and their plight but fails to realistically deal with the very problem we say we are attempting to solve—the exploited underclass of the illegal alien.

Again, I think we must question whether S. 1200 would not, in fact, aggravate an already intolerable situation. For instance, what happens to that undocumented that has resided in the United States before 1980, and would qualify for legalization as prescribed in your bill, but who wishes to change jobs before the new select commission has made its recommendations or who is actually apprehended before the commission acts? I maintain, Mr. Speaker, that your bill provides no recourse for this individual and will, in fact, drive him deeper into the underclass and make him even more exploitable. In other words, the undocumented in my example either can go further underground or be available to work only for his initial employer—since sanctions do not apply to continuous employment for that employee hired before enactment of your bill—creating a state of effective bondage since the threat of exposure is always present. Mr. Speaker, instead of removing these people from their underclass status, the bill is forcing their retreat deeper into an underground world and workplace. I can't believe this is really the result we wish to foster.

Third, I would suggest that when we as a nation invite individuals into this country or to remain here to perform services for the benefit of this country, and its economy, we have a national responsibility to insure that these people are treated fairly, and that while they reside here they do so in an environment free of exploitation and bondage. To do less is a national disgrace. Again, Mr. Speaker, that is not to say that in the interest of a balanced policy that we should not recognize special circumstances that demand individualized treatment. Perishable commodities in agriculture which have for so long depended on a work force consisting of illegal immigrants may very well deserve such individualized consideration.

Finally, I believe the issue of immigration control has been considered for too long as strictly a domestic matter. Likewise, last years debate over the Simpson-Mazzoli bill focused only on the need for the United States "to regain control of its borders" by instituting employer sanctions or by increasing border enforcement. What has become evident to me and the other members of the Congressional Hispanic Caucus, however, is that immigration control is a multilateral issue between the United States and other nations, particularly those whose lesser developed economies and/or political turmoil contribute to the flow of emigrants. This view was confirmed by what the members of the caucus saw an heard on their trip to Latin America last December. On our stop in Mexico, we found that Mexican officials demonstrated a willingness to discuss important bilateral issues, including the problem of undocumented migration.

Mr. Speaker, I would respectfully suggest that we, as a nation, should in our present consideration of immigration reform be fostering both public and private United States and Mexican, as well as other multilateral initiatives, as an important first step toward solving the worldwide illegal immigration problem, of which we are only a part. Such initiatives could include: First, a free trade and coproduction zone along the United States-Mexican border; second, a United States-Mexican bilateral commission; third, a joint United States-Mexican development bank; and fourth, a multilateral commission on immigration. To look only to the domestic side of the immigration problem is to miss half the solution. We must expand our view and look for a total solution for if we do not we are bound to repeat the failures of the past.

Mr. Speaker, there are clearly other components of S. 1200 that need consideration and careful review. I believe, however, that the potential stumbling block to passage of a Immigration Reform and Control Act at anytime in the near future, will arise from our failure to deal with the elements that I have outlined above in an honest, sensitive, and humanitarian way. We must have the capacity as legislators to step into the shoes of those who fear persecutions from their countries of origin, of those who want nothing more than to feed and educate their families and seek a better future, of those who have felt the anxiety and frustration of discrimination, of those who live in constant fear of exposure and thereby become the exploited, and thus to know the depth of their concerns. By the same token, we must be legislators who recognize disruptions to major industries and the economic consequences of our actions, to recognize the limitations of our Nation to provide for all people, and to legitimately recognize the integrity of our borders and the right to control them by effective law enforcement. To skew the scales disproportionately in either direction will only insure our failure once again. I sincerely hope this failure is averted, and I stand ready to work for immediate passage of a fair and equitable immigration reform bill.

I thank you and the other members of the committee for your kind attention to my comments.

PRESIDENT GIVES NEW MEANING TO SOFT ON DEFENSE

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute to revise and extend his remarks and to include extraneous material.)

Mr. SIKORSKI. Mr. Speaker, in his weekend address and over the years, the President and the right wing in America have sought support by attacking others for being what they call soft on defense; yet since he came to office, the President has given a whole new meaning to the term "soft on defense."

The President has been soft on defense contractors who charge the American taxpayers for things like dog boarding, lavish parties, and even $700 toilet seats.

He has been soft on Defense Department officials who aid and abet this billion-dollar gouging.

And he has been soft on defense personnel who ignore the abuse and then swing through the revolving doors into quarter-million-dollar jobs with the defense industry.

In fact, he is so soft on defense, President Reagan would win the Charmin squeeze test. But with our luck, that toilet paper would probably cost $100 a roll—to go with the $700 toilet seat.

Mr. Speaker, I include the test of the response of the majority leader to President Reagan's radio broadcast of June 22, 1985.

TEXT OF HOUSE MAJORITY LEADER JIM WRIGHT'S RESPONSE TO PRESIDENT REAGAN'S RADIO BROADCAST, JUNE 22, 1985

WASHINGTON.—At the outset, let me ask that all Americans join together this weekend in prayers for the safe and speedy release of our fellow citizens held captive in foreign lands. This is a matter that transcends partisanship. It is a prayer in which all of us can join as one.

When the security of our country and the safety of our people are at stake, Democrats in Congress have always put patriotism above partisanship. We want no political advantage at the price of American misery.

In the wake of fanatical bombings—terrorist attacks—cowardly kidnappings which take American citizens captive and mock the efforts of the White House to deal with them, we silence our criticism and publicly support the President of the United States.

It is unfortunate that Mr. Reagan apparently cannot resist the temptation to make partisanship attacks on us over questions of honest judgment and priorities.

Today in a rhetorical orgy he attacked our House budget for not spending enough more on the Pentagon and for insisting that we keep our promise—and his promise—to the American people by protecting Social Security recipients, disabled veterans, and military retirees from the ravages of inflation.

Mr. Reagan accused us of wanting to weaken the country's defense. That is utterly untrue. In the matter of national security, we support a strong defense. This is not a partisan issue. The Democratic House has provided very substantive defense increases in each of the past four years. We are spending twice as much on the Pentagon this year as we were in 1980.

The President would have you believe that we are sending a "signal of weakness" to other countries and "cutting vital defense needs." That is emphatically not true. Our budget will increase defense outlays by 15 billion dollars next year over this year's figure.

Mr. Reagan next says the House makes "no meaningful effort" to shrink what he calls the "spending machine." He did not tell you that our House budget reduces his projected budget deficit for next year by $56 billion, the same amount the Senate does. We cut next year's deficit $56 billion below the amount Mr. Reagan himself submitted in his budget in February. Our House budget freezes most civilian programs at last year's level.

The President says he likes the Senate budget because of its "program reforms and permanent savings."

Let's look at what he and the Republican Senators are calling "program reforms."

They want to renege on the commitment to our elderly by denying any cost of living adjustment for retirees.

They want to make medicare treatment more costly to the elderly patients.

They want to reduce the amount we share with our states for medicaid.

They want to make it harder for young Americans to get a college education by reducing student loans at a time of soaring tuition costs.

They want to make it harder for a young couple to buy a home.

Their Senate Republican budget would add user fees for a family taking a VA loan of about $2,500 up front or $30 a month for the life of the loan—probably $10,000 over the life of the average home loan. Mr. Reagan says he is against any new tax, that he'll veto it. Well, I wonder what he calls that.

The President talks piously of deficits. Yet his policies have added as much to the national debt in these first five years of the Reagan Administration as our ancestors added in the entire 192 years of our previous history.

These enormous fiscal shortfalls which plague us are Reagan deficits—the result of his huge tax giveway of 1981 and his enormous military spending buildup, which has been so rapid that waste and flagrant abuse have sapped our strength and robbed the buying power of our military dollars.

We are as committed to an adequate defense as Mr. Reagan is. But we do not believe the people expect us to tolerate waste.

We are as deeply committed to reducing those raging deficits as he is. But we will do it by keeping faith with the American people, by keeping our promises.

In the campaign last year, Mr. Reagan made a solemn promise to protect social security COLA's. Now he wants us to break that promise as the Senate has done.

We are not prepared to do that. The American people would not respect us if we did.

Hubert Humphrey said the moral test of government is how it treats those who are in the dawn of life, the children, those who are in the twilight of life, the aged, and those who are in the shadows of life, the handicapped and the disadvantaged.

In being fiscally responsible we intend also to be morally responsible. And I think that's what the American people want and expect us to do.

A COIN IS NOT A COIN WITHOUT A FACE VALUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, legislation is currently pending in the House and in the other body that would call for the minting of gold and silver bullion coins.

While I support such legislation, I cannot support a provision of most of the bills that classifies the coins as legal tender but does not place a face value on the coins.

A number of Members in the House support gold bullion legislation as a way to draw sales away from the South African Krugerrand. They point out that the Krugerrand does not have a face value, and in order to be competitive with the Krugerrand, the U.S. bullion piece should not have a face value.

While it is true that Krugerrands have been an attractive gold source in recent years, the bull market for Krugerrands is fading quickly. Recently, the trend among gold buyers has been a switch from the Krugerrands to the Canadian maple leaf, a gold coin which contains a face value. In short, the maple leaf, with its face value, has become more popular than has the Krugerrand without a face value.

Another example of the problems with buillion coins without face value is the U.S. Gold Medallion Program, which had been in operation in this country for 5 years. The medallions, which have no face value, have been virtually a sales flop. The medallions were originally sold directly by the U.S. Mint, but there was some criticism, which I believe to be unjustified, that the mint was not doing a good selling job. The sales program was then given to a private marketing concern, J. Aron & Co. The sales of the product were so poor under the J. Aron contract, that the contract had to be terminated, with a loss of millions of dollars of foregone revenue to the taxpayers. The lack of interest in these medallions was not due to inadequate sales measures, but rather, in my opinion, due to an inferior product—a coin that did not have a face value.

There is thus adequate research to show that the selling of gold in this country without a face value will not be a successful venture.

To those who want to cut into the sales of Krugerrands as a protest to the apartheid policy of South Africa, I would point out that while a new gold bullion coin without a face value may have initial sales success, in the long run there will not be ongoing sales. A coin with no face value will be a one-shot deal as far as purchasers are concerned, particularly among the numis-

matic community. However, coins with a face value that are redated every year, will have a long-lasting sales appeal, and could ultimately wipe out Krugerrand sales in this country completely.

My opinions are shared by a large portion of the numismatic community, including the major numismatic publications. I am including in my remarks an editorial which appears in the June 19 issue of Coin World, a respected numismatic publication. I urge Members to read the editorial because it makes a good case for face value coins. If we go without face values we will merely be going through a costly exercise in frustration. But if we go with face values, I predict that the numismatic community will support the program, and we will see record sales that will knock the Krugerrand right on its apartheid backside.

A copy of the editorial follows:

[From Coin World, June 19, 1985]

MANNING THE BATTLE STATIONS

The battle lines are drawn.

The U.S. Senate is nearing floor action on the Statue of Liberty commemorative coin bill which has already gained passage in the House of Representatives. It is a simple measure which calls for the issuance of three commemorative coins: a gold $5 coin, a silver dollar, and a copper-nickel half dollar.

For weeks the Statue of Liberty bill has languished in the Senate. Perhaps a more accurate description is that it has been held hostage.

Senate proponents of bullion coins and those advocating U.S. sanctions against South Africa (banning importation of the Krugerrand) put "holds" on the Statue bill.

The current Washington lingo is that there is a "window of opportunity" because the Statue bill is a favorite of Rep. Frank Annunzio, the powerful chairman of the House Coinage subcommittee.

With action during the first week of June in both the Senate and the House on possible economic sanctions against South Africa, an amendment calling for a ban on importation of the Krugerrand is not likely to be tacked onto the Statue bill.

But the prospects of amendments calling for gold and silver bullion coins being attached to the Statue bill are now an accepted reality by most Capitol Hill observers. Some say a 1 ounce gold bullion coin and a 1 ounce silver coin. Other versions suggest a variation on the gold with as many as four coins: an ounce, half ounce, quarter ounce and tenth of an ounce.

This brings us to the battle scene:

The odds-on-favorite among proponents of bullion coins is the Liberty Double Eagle Bullion Coin Act (S. 636), sponsored by Senate Majority Leader Robert Dole of Kansas and Sen. Alan Cranston, D-Calif. It would designate bullion coins as legal tender at their fair market value, without a dollar-denomination.

Joe Cobb, senior economist for the Senate Joint Economic Committee, explains the the phrase "legal tender at fair market value" in these terms:

"The price (in dollars) of an ounce of gold today changes every few minutes. If you owed someone $100 and offered him a legal tender gold coin—assume the price of gold were $300 per ounce—would you be entitled to change? Is the legal tender coin a method of discharging that debt? Would he have to take the coin at a 'fair market value' of $300 and give you $200 in Federal Reserve notes back?

"The answer is 'No' because the coin requires valuation in order to be a tender for the debt. There is no predetermined dollar-value. You don't have the unilateral power to tell anyone how many dollars the coin is worth! Your creditor would be free to offer you a free-market price of $100 for the coin; if you still wanted to use it to pay your debt, he probably wouldn't protest (his economic opinion about the gold coin was reflected already in the very low price he set upon it)!"

On the question of designated denomination, Mr. Cobb explains:

"There are still outstanding obligations of the United States that were issued prior to 1933 and will mature in the future. Under the Supreme Court ruling in Perry v. U.S. (1935), any legal tender gold coin that has a fixed value would be hypothetically payable in satisfaction of the debt. Since the law in this case is Article 5 of the Bill of Rights and Section 9, Article I of the Constitution, the statutory provision subordinating the coins' legal tender status to 31 U.S.C. 5118 would be an open invitation to litigation.

"To spare the government a number of nusiance suits (one is already pending in Seattle, based on the Olympic gold coins of 1984), the conscious omission of a 'symbolic' dollar denomination in S. 636 and H.R. 1123 [companion House bill] is an important feature of the legislation."

Annunzio is adamant. He insists that any gold or silver coins must have legal tender status and must have the denomination designated on the coin.

Indeed the Treasurer of the United States, Katherine D. Ortega, in stating the Treasury Department's position noted:

". . . All legal tender coins should have a face value. The necessity and wisdom of ascribing a definite value to each of our coins is evidenced by nearly two hundred years of coinage legislation. Since the face value is an intrinsic element of a coin as a monetary instrument, all of our coins have been denominated by Congress in terms of a dollar or its multiples and fractions since the beginning of the Republic. A legal tender coin of the realm, whose value would depend entirely on the fluctuations of the precious metal market, would represent a major departure from this long and consistent practice."

The Treasury Department's official position, though, is that it does not favor ascribing a face value to a gold bullion coin and that it will only support a gold bullion coin if Congress assigns no value or legal tender status to the coin.

There are many good reasons why America should have gold coins, foremost of which is giving Americans the option of choosing to buy an American gold coin vs. being forced to buy foreign coins, if one wants to own gold in coined form currently. (Those who look at the United States' balance of trade and foreign debt situation surely can see the wisdom in an American gold coin.)

Proponents argue that the American gold coin should be exactly like the Krugerrand, which is legal tender in South Africa at its fair market value and does not have a denomination stamped on it.

What about the Canadian Maple Leaf which is legal tender and has a denomination of $50? As the glitter of the Krugerrand pales because of South Africa's political situation, the Maple Leaf has become a strong challenger.

We have only to look at our recent history and experience with the American Arts Gold Medallion program. In many respects it should have been a competitor; it has 1 ounce of gold. But the program was a miserable failure.

The medallion program was doomed because it lacked the necessary ingredients. Although the country of origin was added midway through the program, the gold pieces will always be medals, not coins.

To capture the public's confidence and acceptance, the United States will have to issue a coin. By definition a coin is a piece of metal of fixed value and weight issued by a government and used as money.

One thing that is often lost in any discussion of American bullion coins vs. foreign gold, such as the Krugerrand, is the marketing. It there is one lesson to be learned, it is the importance of advertising, public relations, and a worldwide marketing program. The South Africans wrote the book in this area.

Mr. Annunzio appears firm in his resolve not to accept bullion coin amendments which do not accord such coins legal tender status and do not designate denomination. We would urge him to keep that resolve.

The mostly likely senario is that the Senate will have its day and amend the Statue of Liberty bill in a form unacceptable to Annunzio, which would likely prompt a conference committee.

The unprecedented possiblity of a legal tender coin without an assigned face value is far too important a matter to leave to the strong-arm politics of a conference committee.

We would urge a compromise of sorts. First expedite the Statue of Liberty bill. Then set immediate hearings in the House Subcommittee on Consumer Affairs and Coinage where all of the factors and arguments can be aired with regard to bullion coinage, including marketing aspects.

As much as we favor the commemorative Statue of Liberty coinage and bullion coinage, we cannot in good conscience advocate a package deal whereby legislators are asked to approve Statue of Liberty coins and at the same time authorize bullion coins without legal tender status or designated denominations.

The bills should be scrutinized, debated, and voted on individually.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent on Friday, June 21, 1985. Had I been present, I would have voted:

"Aye" on roll No. 182, on approving the Journal of Thrusday, June 20, 1985; and

"Aye" on roll No. 184, an amendment to H.R. 1872, Department of Defense fiscal year 1986 authorization, to clarify specifications of core logistics functions subject to contracting—out limitations.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HAYES) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Mr. BROWN of California, for 5 minutes, today.

Mr. ECKART of Ohio, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OBEY, for 30 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, on June 25.

Mr. GONZALEZ, for 60 minutes, on June 26.

Mr. GONZALEZ, for 60 minutes, on June 27.

Mr. DORGAN of North Dakota, for 60 minutes, on June 27.

Mr. GAYDOS, for 30 minutes, on June 25.

Mr. GAYDOS, for 30 minutes, on June 26.

Mr. OBEY, for 30 minutes, on June 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCMILLAN) and to include extraneous matter:)

Mr. CONTE.

Mr. MICHEL.

Mr. YOUNG of Alaska.

Mr. PORTER.

Mr. WALKER.

(The following Members (at the request of Mr. HAYES) and to include extraneous matter:)

Mr. LUKEN.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. GONZALEZ in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. ANDERSON in 10 instances.

Mr. SIKORSKI.

Mr. MAZZOLI in two instances.

Mr. MCCLOSKEY.

Mr. BARNES.

Mr. CONYERS.

Mr. LUNDINE.

Mr. GARCIA.

Mr. DYMALLY.

Mr. STARK in two instances.

Mr. COELHO.

Mr. WAXMAN.

SENATE JOINT RESOLUTIONS

Joint Resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 111. Joint Resolutions to designate the month of October 1985 as "National Spina Bifida Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 122. Joint Resolutions to authorize the President to proclaim the last Friday of April 1986 as "National Arbor Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. HAYES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 6 minutes p.m.) the House adjourned until tomorrow, Tuesday, June 25, 1985, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1570. A letter from the Comptroller General of the United States, transmitting a notification of a deferral of budget authority which was not reported by the President, pursuant to 2 U.S.C 686(a). (H. Doc. No. 99-81); to the Committee on Appropriations and ordered to be printed.

1571. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. ACT 6-47, "Closing of a Portion of Brentwood Road, NE., adjacent to square 4208, S.O. 84-25, Act of 1985," and report, pursuant to Public Law 98-198, section 602(c); to the Committee on the District of Columbia.

1572. A letter from the Acting Assistant Attorney General, transmitting a draft of proposed legislation entitled "The Department of Justice Gift Acceptance Act"; to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SCHUMER:

H.R. 2846. A bill to protect the constitutional right to freedom of speech by establishing a new cause of action for defamation, and for other purposes; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 2847. A bill to authorize the Administrator of the General Services Administration to sell certain land in Alameda County, CA, and for other purposes; to the Committee on Armed Services.

By Mr. STARK (for himself, Mr. PASHAYAN, Mr. ANDERSON, Mr. BATES, Mr. BERMAN, Mr. BOSCO, Mrs. BOXER, Mr. BROWN of California, Mrs. BURTON of California, Mr. CHAPPIE, Mr. COELHO, Mr. DANNEMEYER, Mr. DELLUMS, Mr. DIXON, Mr. DOWNEY of New York, Mr. EDWARDS of California, Mr. FAZIO, Mr. HAWKINS, Mr. LEHMAN of California, Mr. LEVINE of California, Mr. LUNDINE, Mr. MARTINEZ, Mr. MATSUI, Mr. MILLER of California, Mr. PANETTA, Mr. ROYBAL, Mr. RANGEL, and Mr. SCHUMER):

H.R. 2848. A bill to amend the Federal Aviation Act of 1958 to require that Federal Government-financed passengers and property traveling in international air transportation be transported only on air carriers which, if serving beer and wine, serve only beer and wine that are principally the product of the United States; to the Committee on Public Works and Transportation.

By Mr. YOUNG of Alaska:

H.R. 2849. A bill to increase the rates of duty on gasoline and motor fuel blending stock, and for other purposes; jointly, to the Committees on Ways and Means, Public Works and Transportation, and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 281: Mr. RODINO, Mr. DICKS, and Mr. KANJORSKI.

H.R. 598: Mr. FASCELL and Mr. PENNY.

H.R. 712: Mr. WILSON and Mr. BATEMAN.

H.R. 1205: Mr. HOYER and Mr. SILJANDER.

H.R. 1375: Ms. OAKAR and Mr. SKELTON.

H.R. 1376: Mr. KILDEE.

H.R. 1449: Mr. GINGRICH.

H.R. 1524: Mr. RIDGE, Mr. FLORIO, Mr. BORSKI, Mr. ST GERMAIN, Mr. SABO, Mr. DONNELLY, Mrs. JOHNSON, and Mr. WEISS.

H.R. 1550: Mr. SAVAGE.

H.R. 1552: Mr. MCCOLLUM, Mr. LEACH of Iowa, Mr. ACKERMAN, Mrs. BENTLEY, Mr. WORTLEY, Mr. DAUB, Mr. THOMAS of California, and Mr. DELAY.

H.R. 1616: Mr. BORSKI and Mr. MILLER of California.

H.R. 1763: Mr. BURTON of Indiana.

H.R. 1965: Mr. BOEHLERT, Mr. COATS, Mr. GOODLING, Mr. HORTON, Mr. PACKARD, Mr. PASHAYAN, Mr. PRICE, and Mr. SILJANDER.

H.R. 2076: Mr. WOLPE, Mr. MARTINEZ, and Mrs. BOXER.

H.R. 2205: Mr. BONIOR of Michigan and Mr. DURBIN.

H.R. 2262: Mr. SENSENBRENNER and Mr. WEISS.

H.R. 2384: Mr. DORNAN of California, Mr. GARCIA, and Mr. LIPINSKI.

H.R. 2489: Mr. BOUCHER.

H.R. 2588: Mr. NIELSON of Utah, Mr. GINGRICH, Mr. HANSEN, Mr. OWENS, Mr. DWYER of New Jersey, Mr. WATKINS, Mr. BURTON of Indiana, Mr. ACKERMAN, Mr. TRAXLER, Mr. ROWLAND of Georgia, Mr. NICHOLS, Mr. DURBIN, Mr. ROYBAL, Mr. TORRES, Mr. LUKEN, and Mr. WEBER.

H.R. 2589: Mr. BERMAN, Mr. LEVINE of California, Mrs. BURTON of California, Mr. ACKERMAN, Mr. MINETA, and Mr. STUDDS.

H.R. 2761: Mr. STAGGERS.

H.J. Res. 101: Mr. SAXTON and Mr. COELHO.

H.J. Res. 106: Mr. MADIGAN.

H.J. Res. 133: Mr. EDGAR, Mr. LEWIS of Florida, Mr. YATRON, and Mr. HOWARD.

H.J. Res. 156: Mr. HUTTO and Mr. LEVIN of Michigan.

H.J. Res. 165: Mr. PETRI.

H.J. Res. 260: Mr. HUGHES, Mr. PORTER, Mrs. HOLT, and Mr. WILSON.

H.J. Res. 296: Mr. ROTH, Mr. TAYLOR, Mr. FUSTER, Mr. MURPHY, Mr. GROTBERG, Mr. HUTTO, Mr. ORTIZ, Mr. CHAPPIE, Ms. KAPTUR, Mr. DE LUGO, Mr. BARNES, Mr. FAUNTROY, Mr. DARDEN, Mr. CARNEY, Mr. STANGELAND, Mr. DASCHLE, Mr. HOYER, and Mr. TALLON.

H. Res. 116: Mr. BROWN of California, Mr. ORTIZ, Mr. DASCHLE, and Mr. WEISS.

H. Res. 132: Mr. MCCOLLUM and Mr. WOLPE.

H. Res. 144: Mr. BATEMAN and Mr. WHITLEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1872

By Mr. ASPIN:

—At the end of title X (page 200, after line 4) insert the following new section:

SEC. 1050. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT.

(a) LIMITATIONS ON ACCEPTANCE OF COMPENSATION.—(1) An individual who is a former officer or employee of the Department of Defense or a former or retired member of the Armed Forces who during the two-year period preceding the individual's separation from service in the Department of Defense had significant responsibilities for a procurement function with respect to a contractor while serving in a position identified by the Secretary of Defense under subsection (g)(1) may not accept compensation from that contractor for a period of two years following the individual's separation from service in the Department of Defense if that contractor is included in the notice provided that individual under subsection (d).

(2) Whoever knowingly violates paragraph (1) shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(3) An individual who knowingly offers or provides any compensation to an individual the acceptance of which is or would be in violation of paragraph (1) shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) LIMITATIONS ON CONTRACTORS.—(1) Each contract for procurement of goods or services entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to an individual if the acceptance of such compensation by such individual would violate subsection (a)(1).

(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

(A) $100,000; or

(B) three times the compensation paid by the contactor to the individual in violation of such contract provision.

(c) REPORTING OF EMPLOYMENT CONTRACTS.—(1) If an officer or employee of the Department of Defense, or a member of the Armed Forces, having responsibilities for a procurement function with respect to a contractor contacts, or is contacted by, the contractor regarding future compensation of the officer, employee, or member by the contractor, the officer, employee, or member shall—

(A) promptly report the contact to the officer, employee, or member's supervisor and to the designated ethics official of the agency in which the officer, employee, or member is serving;

(B) promptly report (as part of the report under subparagraph (A) or as a separate report) when contacts with the contractor concerning such compensation have been terminated without agreement or commitment to future compensation of the officer, employee, or member by the contractor; and

(C) disqualify himself from all participation in the performance of procurement functions relating to contracts with that contractor until a report described in subparagraph (B) is made with respect to such contacts.

(2) If an officer, employee, or member serving in a position with respect to which an exemption is in effect under subsection (g)(2) fails to disqualify himself as required by paragraph (1)(C) with respect to procurement functions relating to contracts of a contractor, subsections (a) and (b) apply to acceptance of compensation by that officer, employee, or member from that contractor.

(d) NOTICE TO OFFICERS AND EMPLOYEES LEAVING DOD SERVICE.—(1) The Secretary of Defense shall give the notice described in paragraph (2) to each officer and employee of the Department of Defense and each member of the Armed Forces–

(A) who after the effective date of this section is separated from service in the Department of Defense; and

(B) who during the two-year period before that separation served in a position in the Department that included significant responsibility for a procurement function and that was identified by the Secrertary of Defense under subsection (g)(1).

(2) A notice required by paragraph (1) shall provide the individual receiving the notice—

(A) a written explanation of the provisions of this section; and

(B) the name of each contractor from whom such individual is prohibited from accepting compensation under this section during the two-year period following such separation from service in the Department of Defense.

(e) CONTRACTOR REPORTS.—(1)(A) Each contractor subject to a contract term described in subsection (b) shall submit to the Secretary of Defense not later than April 1 of each year a report covering the previous calendar year. Each such report shall list the name of each individual (together with other information adequate for the Government to identify the individual) who is a former Department of Defense officer or employee, or a former or retired member of the Armed Forces, who—

(i) was provided compensation by that contractor during the preceding calendar year, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense; and

(ii) had significant responsibilities for a procurement function during the individual's last two years of service in the Department of Defense. (B) Each such listing shall—

(i) show each agency in which the individual was employed or served on active duty during the last two years of such individual's service in the Government;

(ii) show the individual's job titles during the last two years of such individual's service in the Government;

(iii) contain a full and complete description of the duties of the individual during the last two years of such service; and

(iv) contain a description of the duties (if any) that the individual is performing on behalf of the contractor.

(C) The first such report shall be submitted not later than April 1, 1987.

(2) The Secretary of Defense shall review each report under paragraph (1) to assess the report for accuracy and completeness and for the purpose of identifying possible violations of subsection (a) or (b) or paragraph (1). The Secretary shall report any such possible violations to the Attorney General.

(3) Whoever fails to file a report required by paragraph (1) shall be fined not more than $10,000.

(f) REVIEW BY DIRECTOR OF OFFICE OF GOVERNMENT ETHICS.—The Director of the Office of Government Ethics shall have access to the reports submitted under subsection (e)(1) and shall conduct an annual random review of the reports for violations of subsections (a), (b), and (e)(1). The Director shall submit a report to Congress not later than October 1 of each year on the operation of this section, including the findings of the Director based on the examination of reports for the preceding calendar year.

(g) COVERED POSITIONS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe and publish in the Federal Register regualtions identifying those positions within the Department of Defense that have as their primary duty the management, direction, oversight, or justification, with respect to a particular product or service, of—

(A) development;

(B) production;

(C) funding;

(D) operational and developmental testing;

(E) auditing; or

(F) acquisition.

(2) Positions identified under paragraph (1) shall include as a minimum each position with respect to a contract or program—

(A) as the program manager or deputy program manager;

(B) as a program monitor;

(C) as a member of a source-selection evaluation board or of the technical and cost teams advising the board or as the official responsible for approval of a sole-source contract;

(D) as the head of the system's program office;

(E) as the source selection authority for the system; and

(F) in which an individual is assigned on a permanent basis in the government plant representative office.

(3) Regulations under paragraph (1) shall be revised not less often than once each year. Any revision of such regulations shall be published in the Federal Register.

(4) (A) When a vacancy occurs in a position identified under paragraph (1) and the Secretary of Defense determines that the duties inherent in that position involve significant responsibilities for procurement functions with so many contractors that implementation of subsections (a) and (b) with respect to individuals serving in that position would seriously hamper the ability of the Department of Defense to obtain the services of a highly qualified individual to fill that vacancy, the Secretary, with the concurrence of the Director of the Office of Government Ethics, may exempt the individual appointed to fill that vacancy from the provisions of such subsections by reason of service in such position.

(B) Whenever the Secretary grants an exemption under this paragraph, the Secretary shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report describ-

ing the exemption and setting forth the specific reasons for the exemption.

(h) EXCLUSION.—This section does not apply—

(1) to a contract for an amount less than $100,000; or

(2) to compensation of an individual by an entity that did not have a Department of Defense contract in excess of $100,000 at the time the individual had significant responsibilities for a procurement function with respect to a contract with that entity.

(i) ADVISORY OPINIONS FROM OFFICE OF GOVERNMENT ETHICS.—(1) An individaul who is considering the propriety of accepting compensation that might place the individual in violation of subsection (a) may, before acceptance of such compensation, apply to the Director of the Office of Government Ethics for advice on the applicability of this section to the acceptance of such compensation.

(2) An application under paragraph (1) shall contain such information as the Director requires.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "compensation" includes any payment, gift, benefit, reward, favor, gratuity, or employment valued in excess of $100 at prevailing market price, provided directly, indirectly, or through a third party.

(2) The term "contractor" means any person, partnership, corporation, or agency (other than the Federal Government or the independent agencies thereof) that contracts to supply the Department of Defense with goods or services. Such term includes any parent, subsidiary, or affiliate thereof.

(3) The term "procurement function", with respect to a contract, means any acquisition action relating to the contract, including negotiating, awarding, administering, approving contract changes, costs analysis, quality assurance, operational and developmental testing, technical advice or recommendation, approval of payment, contractor selection, budgeting, auditing under the contract, or management of the procurement program.

(4) The term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps and includes the Coast Guard when the Coast Guard is operating as a service in the Navy.

(k) SEPARATION OF MEMBERS OF ARMED FORCES.—For the purposes of this section, a member or former member of the Armed Forces shall be considered to have been separated from service in the Department of Defense upon such member's discharge or release from active duty.

(l) TRANSITION.—(1) This section—

(A) does not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(B) does not, except as provided in paragraph (2), apply to an individual whose service with the Department of Defense terminates before April 1, 1986.

(2) Paragraph (1)(B) does not preclude the application of this section to an individual with respect to service in the Department of Defense by such individual on or after April 1, 1986.

(m) EFFECTIVE DATE.—This section shall take effect on January 1, 1986.

—At the end of title X (page 200, after line 4) insert the following new section:

SEC. 1050. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT.

(a) LIMITATIONS ON ACCEPTANCE OF COMPENSATION.—(1) An individual who is a former officer or employee of the Department of Defense or a former or retired member of the Armed Forces who during the two-year period preceding the individual's separation from service in the Department of Defense had significant responsibilities for a procurement function with respect to a contractor while serving in a position identified by the Secretary of Defense under subsection (g)(1) may not accept compensation from that contractor for a period of two years following the individual's separation from service in the Department of Defense if that contractor is included in the notice provided that individual under subsection (d).

(2) Whoever knowingly violates paragraph (1) shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(3) An individual who knowingly offers or provides any compensation to an individual the acceptance of which is or would be in violation of paragraph (1) shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) LIMITATIONS ON CONTRACTORS.—(1) Each contract for procurement of goods or services entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to an individual if the acceptance of such compensation by such individual would violate subsection (a)(1).

(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

(A) $100,000; or

(B) three times the compensation paid by the contractor to the individual in violation of such contract provision.

(c) REPORTING OF EMPLOYMENT CONTACTS.—(1) If an officer or employee of the Department of Defense, or a member of the Armed Forces, having responsibilities for a procurement function with respect to a contractor contacts, or is contacted by, the contractor regarding future compensation of the officer, employee, or member by the contractor, the officer, employee, or member shall—

(A) promptly report the contact to the officer, employee, or member's supervisor and to the designated ethics official of the agency in which the officer, employee, or member is serving;

(B) promptly report (as part of the report under subparagraph (A) or as a separate report) when contacts with the contractor concerning such compensation have been terminated without agreement or commitment to future compensation of the officer, employee, or member by the contractor; and

(C) disqualify himself from all participation in the performance of procurement functions relating to contracts with that contractor until a report described in subparagraph (B) is made with respect to such contacts.

(2) If an officer, employee, or member serving in a position with respect to which an exemption is in effect under subsection (g)(2) fails to disqualify himself as required by paragraph (1)(C) with respect to procurement functions relating to contracts of a contractor, subsections (a) and (b) apply to acceptance of compensation by that officer, employee, or member from that contractor.

(d) NOTICE TO OFFICERS AND EMPLOYEES LEAVING DOD SERVICE.—(1) The Secretary of Defense shall give the notice described in paragraph (2) to each officer and employee of the Department of Defense and each member of the Armed Forces—

(A) who after the effective date of this section is separated from service in the Department of Defense; and

(B) who during the two-year period before that separation served in a position in the Department that included significant responsibility for a procurement function and that was identified by the Secretary of Defense under subsection (g)(1).

(2) A notice required by paragraph (1) shall provide the individual receiving the notice—

(A) a written explanation of the provisions of this section; and

(B) the name of each contractor from whom such individual is prohibited from accepting compensation under this section during the two-year period following such separation from service in the Department of Defense.

(e) CONTRACTOR REPORTS.—(1)(A) Each contractor subject to a contract term described in subsection (b) shall submit to the Secretary of Defense not later than April 1 of each year a report covering the previous calendar year. Each such report shall list the name of each individual (together with other information adequate for the Government to identify the individual) who is a former Department of Defense officer or employee, or a former or retired member of the Armed Forces, who—

(i) was provided compensation by that contractor during the preceding calendar year, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense; and

(ii) had significant responsibilities for a procurement function during the individual's last two years of service in the Department of Defense.

(B) Each such listing shall—

(i) show each agency in which the individual was employed or served on active duty during the last two years of such individual's service in the Government;

(ii) show the individual's job titles during the last two years of such individual's service in the Government;

(iii) contain a full and complete description of the duties of the indivdual during the last two years of such service; and

(iv) contain a description of the duties (if any) that the individual is performing on behalf of the contractor.

(C) The first such report shall be submitted not later than April 1, 1987.

(2) The Secretary of Defense shall review each report under paragraph (1) to assess the report for accuracy and completeness and for the purpose of identifying possible violations of subsection (a) or (b) or paragraph (1). The Secretary shall report any such possible violation to the Attorney General.

(3) Whoever fails to file a report required by paragraph (1) shall be fined not more than $10,000.

(f) REVIEW BY DIRECTOR OF OFFICE OF GOVERNMENT ETHICS.—The Director of the Office of Government Ethics shall have access to the reports submitted under subsection (e)(1) and shall conduct an annual random review of the reports for violations of subsections (a), (b), and (e)(1). The Director shall submit a report to Congress not later than October 1 of each year on the operation of this section, including the findings of the Director based on the examina-

tion of reports for the preceding calendar year.

(g) COVERED POSITIONS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe and publish in the Federal Register regulations identifying those positions within the Department of Defense that have as their primary duty the management, direction, oversight, or justification, with respect to a particular product or service, of—

(A) development;

(B) production;

(C) funding;

(D) operational and developmental testing;

(E) auditing; or

(F) acquisition.

(2) Positions identified under paragraph (1) shall include as a minimum each position with respect to a contract or program—

(A) as the program manager or deputy program manager;

(B) as a program monitor;

(C) as a member of a source-selection evaluation board or of the technical and cost teams advising the board or as the official responsible for approval of a sole-source contract;

(D) as the head of the system's program office;

(E) as the source selection authority for the system; and

(F) in which an individual ais assigned on a permanent basis in the government plant representative office.

(3) Regulations under paragraph (1) shall be revised not less often than once each year. Any revision of such regulations shall be published in the Federal Register.

(4)(A) When a vacancy occurs in a position identified under paragraph (1) and the Secretary of Defense determines that the duties inherent in that position involve significant responsibilities for procurement functions with so many contractors that implementation of subsections (a) and (b) with respect to individuals serving in that position would seriously hamper the ability of the Department of Defense to obtain the services of a highly qualified individual to fill that vacancy, the Secretary, with the concurrence of the Director of the Office of Government Ethics, may exempt the individual appointed to fill that vacancy from the provisions of such subsections by reason of service in such position.

(B) Whenever the Secretary grants an exemption under this paragraph, the Secretary shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the exemption and setting forth the specific reasons for the exemption.

(h) EXCLUSION.—This section does not apply—

(1) to a contract for an amount less than $100,000; or

(2) to compensation of an individual by an entity that did not have a Department of Defense contract in excess of $100,000 at the time the individual had significant responsibilities for a procurement function with respect to a contract with that entity.

(i) ADVISORY OPINIONS FROM OFFICE OF GOVERNMENT ETHICS.—(1) An individual who is considering the propriety of accepting compensation that might place the individual in violation of subsection (a) may, before acceptance of such compensation, apply to the Director of the Office of Government Ethics for advice on the applicability of this section to the acceptance of such compensation.

(2) An application under paragraph (1) shall contain such information as the Director requires.

(j) WAIVER OF OTHERWISE APPLICABLE FINES UNDER TITLE 18.—The provisions of section 3623 of title 18, United States Code, shall apply to maximum fines applicable under subsections (a)(2), (a)(3), and (e)(3).

(K) DEFINITIONS.—For purposes of this section:

(1) The term "compensation" includes any payment, gift, benefit, reward, favor, gratuity, or employment valued in excess of $100 at prevailing market price, provided directly, indirectly, or through a third party.

(2) The term "contractor" means any person, partnership, corporation, or agency (other than the Federal Government or the independent agencies thereof) that contracts to supply the Department of Defense with goods or services. Such term includes any parent, subsidiary, or affiliate thereof.

(3) The term "procurement function", with respect to a contract, means any acquisition action relating to the contract, including negotiating, awarding, administering, approving contract changes, costs analysis, quality assurance, operational and developmental testing, technical advice or recommendation, approval of payment, contractor selection, budgeting, auditing under the contract, or management of the procurement program.

(4) The term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps and includes the Coast Guard when the Coast Guard is operating as a service in the Navy.

(l) SEPARATION OF MEMBERS OF ARMED FORCES.—For the purposes of this section, a member or former member of the Armed Forces shall be considered to have been separated from service in the Department of Defense upon such member's discharge or release from active duty.

(m) TRANSITION.—(1) This section—

(A) does not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(B) does not, except as provided in paragraph (2), apply to an individual whose service with the Department of Defense terminates before April 1, 1986.

(2) Paragraph (1)(B) does not preclude the application of this section to an individual with respect to service in the Department of Defense by such individual on or after April 1, 1986.

(n) EFFECTIVE DATE.—This section shall take effect on January 1, 1986.

—At the end of title X (page 200, after line 4) insert the following new section:

SEC. 1050. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT.

(a) LIMITATIONS OF ACCEPTANCE OF COMPENSATION.—An individual who is a former officer or employee of the Department of Defense or a former or retired member of the Armed Forces who during the two-year period preceding the individual's separation from service in the Department of Defense had significant responsibilities for a procurement function with respect to a contractor while serving in a position identified by the Secretary of Defense under subsection (g)(1) may not accept compensation from that contractor for a period of two years following the individual's separation from service in the Department of Defense if that contractor is included in the notice provided that individual under subsection (d).

(b) LIMITATIONS ON CONTRACTORS.—(1) Each contract for procurement of goods or services entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to an individual if the acceptance of such compensation by such individual would violate subsection (a).

(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

(A) $100,000; or

(B) three times the compensation paid by the contractor to the individual in violation of such contract provision.

(c) REPORTING OF EMPLOYMENT CONTACTS.—(1) If an officer or employee of the Department of Defense, or a member of the Armed Forces, having responsibilities for a procurement function with respect to a contractor contacts, or is contacted by, the contractor regarding future compensation of the officer, employee, or member by the contractor, the officer, employee, or member shall—

(A) promptly report the contact to the officer, employee, or member's supervisor and to the designated ethics official of the agency in which the officer, employee, or member is serving;

(B) promptly report (as part of the report under subparagraph (A) or as a separate report) when contacts with the contractor concerning such compensation have been terminated without agreement or commitment to future compensation of the officer, employee, or member by the contractor; and

(C) disqualify himself from all participation in the performance of procurement functions relating to contracts with that contractor until a report described in subparagraph (B) is made with respect to such contracts.

(2) If an officer, employee, or member serving in a position with respect to which an exemption is in effect under subsection (g)(2) fails to disqualify himself as required by paragraph (1)(C) with respect to procurement functions relating to contracts of a contractor, subsections (a) and (b) apply to acceptance of compensation by that officer, employee, or member from that contractor.

(d) NOTICE TO OFFICERS AND EMPLOYEES LEAVING DOD SERVICE.—(1) The Secretary of Defense shall give the notice described in paragraph (2) to each officer and employee of the Department of Defense and each member of the Armed Forces—

(A) who after the effective date of this section is separated from service in the Department of Defense; and

(B) who during the two-year period before that separation served in a position in the Department that included significant responsibility for a procurement function and that was identified by the Secretary of Defense under subsection (g)(1).

(2) A notice required by paragraph (1) shall provide the individual receiving the notice—

(A) a written explanation of the provisions of this section; and

(B) the name of each contractor from whom such individual is prohibited from accepting compensation under this section during the two-year period following such separation from service in the Department of Defense.

(e) CONTRACTOR REPORTS.—(1)(A) Each contractor subject to a contract term described in subsection (b) shall submit to the Secretary of Defense not later than April 1 of each year a report covering the previous

calendar year. Each such report shall list the name of each individual (together with other information adequate for the Government to identify the individual) who is a former Department of Defense officer or employee, or a former or retired member of the Armed Forces, who—

(i) was provided compensation by that contractor during the preceding calendar year, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense; and

(ii) had significant responsibilities for a procurement function during the individual's last two years of service in the Department of Defense. (B) Each such listing shall—

(i) show each agency in which the individual was employed or served on active duty during the last two years of such individual's service in the Government;

(ii) show the individual's job titles during the last two years of such individual's service in the Government;

(iii) contain a full and complete description of the duties of the individual during the last two years of such service; and

(iv) contain a description of the duties (if any) that the individual is performing on behalf of the contractor.

(C) The first such report shall be submitted not later than April 1, 1987.

(2) The Secretary of Defense shall review each report under paragraph (1) to assess the report for accuracy and completeness and for the purpose of identifying possible violations of subsection (a) or (b) or paragraph (1). The Secretary shall report any such possible violation to the Attorney General.

(f) REVIEW BY DIRECTOR OF OFFICE OF GOVERNMENT ETHICS.—The Director of the Office of Government Ethics shall have access to the reports submitted under subsection (e)(1) and shall conduct an annual random review of the reports for violations of subsections (a), (b), and (e)(1). The Director shall submit a report to Congress not later than October 1 of each year on the operation of this section, including the findings of the Director based on the examination of reports for the preceding calendar year.

(g) COVERED POSITIONS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe and publish in the Federal Register regulations identifying those positions within the Department of Defense that have as their primary duty the management, direction, oversight, or justification, with respect to a particular product or service, of—

(A) development;

(B) production;

(C) funding;

(D) operational and developmental testing;

(E) auditing; or

(F) acquisition.

(2) Positions identified under paragraph (1) shall include as a minimum each position with respect to a contract or program—

(A) as the program manager or deputy program manager;

(B) as a program monitor;

(C) as a member of a source-selection evaluation board or of the technical and cost teams advising the board or as the official responsible for approval of a sole-source contract;

(D) as the head of the system's program office;

(E) as the source selection authority for the system; and

(F) in which an individual is assigned on a permanent basis in the government plant representative office.

(3) Regulations under paragraph (1) shall be revised not less often than once each year. Any revision of such regulations shall be published in the Federal Register.

(4)(A) When a vacancy occurs in a position identified under paragraph (1) and the Secretary of Defense determines that the duties inherent in that position involve significant responsibilities for procurement functions with so many contractors that implementation of subsections (a) and (b) with respect to individuals serving in that position would seriously hamper the ability of the Department of Defense to obtain the services of a highly qualified individual to fill that vacancy, the Secretary, with the concurrence of the Director of the Office of Government Ethics, may exempt the individual appointed to fill that vacancy from the provisions of such subsections by reason of service in such position.

(B) Whenever the Secretary grants an exemption under this paragraph, the Secretary shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the exemption and setting forth the specific reasons for the exemption.

(h) EXCLUSION.—This section does not apply—

(1) to a contract for an amount less than $100,000; or

(2) to compensation of an individual by an entity that did not have a Department of Defense contract in excess of $100,000 at the time the individual had significant responsibilities for a procurement function with respect to a contract with that entity.

(i) ADVISORY OPINIONS FROM OFFICE OF GOVERNMENT ETHICS.—(1) An individual who is considering the propriety of accepting compensation that might place the individual in violation of subsection (a) may, before acceptance of such compensation, apply to the Director of the Office of Government Ethics for advice on the applicability of this section to the acceptance of such compensation.

(2) An application under paragraph (1) shall contain such information as the Director requires.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "compensation" includes any payment, gift, benefit, reward, favor, gratuity, or employment valued in excess of $100 at prevailing market price, provided directly, indirectly, or through a third party.

(2) The term "contractor" means any person, partnership, corporation, or agency (other than the Federal Government or the independent agencies thereof) that contracts to supply the Department of Defense with goods or services. Such term includes any parent, subsidiary, or affiliate thereof.

(3) The term "procurement function", with respect to a contract, means any acquisition action relating to the contract, including negotiating, awarding, administering, approving contract changes, costs analysis, quality assurance, operational and developmental testing, technical advice or recommendation, approval of payment, contractor selection, budgeting, auditing under the contract, or management of the procurement program.

(4) The term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps and includes the Coast Guard when the Coast Guard is operating as a service in the Navy.

(k) SEPARATION OF MEMBERS OF ARMED FORCES.—For the purposes of this section, a member or former member of the Armed Forces shall be considered to have been separated from service in the Department of Defense upon such member's discharge or release from active duty.

(l) TRANSITION.—(1) This section—

(A) does not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(B) does not, except as provided in paragraph (2), apply to an individual whose service with the Department of Defense terminates before April 1, 1986.

(2) Paragraph (1)(B) does not preclude the application of this section to an individual with respect to service in the Department of Defense by such individual on or after April 1, 1986.

(m) EFFECTIVE DATE.—This section shall take effect on January 1, 1986.

By Mr. BUSTAMANTE:

—Page 200, after line 4, add the following new section:

SEC. 1050. SENSE OF CONGRESS CONCERNING SET-ASIDES FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS CONCERNS WITH RESPECT TO CONTRACTS WITH DEPARTMENT OF DEFENSE.

It is the sense of the Congress that, to the maximum extent practicable, the Secretary of Defense should ensure that not less than three percent of any funds appropriated pursuant to the authorizations made by this Act that are expended by the Department of Defense for contracts are expended for contracts with—

(1) small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined in section 8 of the Small Business Act (15 U.S.C. 637) and regulations issued under such section;

(2) historically Black colleges and universities; and

(3) minority institutions, as defined by the Secretary of Education in regulations issued under the General Education Provisions Act (20 U.S.C. 1221 et seq.).

By Mr. CHAPPELL:

—At the end of title X (page 200, after line 4) insert the following new section:

SEC. 1050. ACQUISITION OF ANTI-SUBMARINE WARFARE TRAINING SYSTEMS.

Of the amount appropriated for the Navy pursuant to the authorization for the Navy in section 201, $6,800,000 shall be available only for acquisition of three SQQ-89 anti-submarine warfare shipboard training systems for the Naval Reserve.

By Mr. CONYERS:

—Insert the following new section at the end of Title X, (page 200, after line 4):

SEC. 1050. CONTRACTING REQUIREMENTS.

(a) Except where compelling national security considerations require otherwise, not less than 10 percent of the amounts appropriated pursuant to authorizations made by title I, II, and IX shall be expended for contracts entered into with small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined by section 8 of the Small Business Act and regulations issued under such section), historically Black colleges and universities, and minority institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act), provided, however, that whenever the Secretary of Defense or the Secretary of Energy

proposes to waive the preceding requirements, the Congress must first be notified in writing including the justification therefor.

(b) The Secretary of Defense and the Secretary of Energy shall submit seminannual reports to the Congress on their compliance with the requirements in subsection (a) with a full explanation for any failure to comply with the requirements and a plan to remedy such failure. The first such reports shall be submitted to the Congress no later than May 1, 1986.

By Mr. DICKS:

—Add the following new section at the end of title X (page 200, after line 4)

SEC. 1050. ACTIVITIES UNDER THE STRATEGIC DEFENSE INITIATIVE TO BE CONSISTENT WITH THE 1972 ABM TREATY.

The Secretary of Defense may not obligate funds appropriated or otherwise made available for fiscal year 1986 for activities of the Strategic Defense Initiative Organization in any manner that is inconsistent with the 1972 Treaty on the Limitation of Anti-Ballistic Missile Systems between the Soviet Union and the United States (the "ABM Treaty").

By Mr. FAZIO:

—Insert the following new section at the end of title X (page 200, after line 4):

SEC. 1050. ONE YEAR PROHIBITION ON USE OF FUNDS WITH RESPECT TO THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE.

(a) LIMITATION OF FUNDS AUTHORIZED FOR FISCAL YEAR 1986.—None of the funds appropriated pursuant to the authorizations of appropriations in this or any other Act may be obligated or expended for the production of the 155-millimeter artillery-fired, atomic projectile (W-82).

(b) LIMITATION OF PRIOR AUTHORIZATION.—None of the funds appropriated for fiscal year 1986 pursuant to the authorizations of appropriations in section 1635 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985 (title XVI of Public Law 98-525) may be obligated or expended during fiscal year 1986.

(c) COMMISSION ON BATTLEFIELD NUCLEAR WEAPONS.—(1) The Congress finds that—

(A) the deployment of battlefield nuclear weapons such as artillery shells constitutes a potentially fateful link between local crises and general nuclear war;

(B) the usefulness and merits of battlefield nuclear weapons are subjects of considerable debate among arms specialists;

(C) the North Atlantic Treaty Organization (hereinafter in this subsection referred to as the "NATO") has initiated measures to—

(i) reduce reliance on weapons systems which create pressures for the early first use of nuclear weapons; and

(ii) increase reliance on conventional forces;

(D) member nations of the NATO have not approved deployment of the 155-millimeter artillery-fired atomic projectile, and construction of facilities to produce the weapon has not begun;

(E) the Congress has not debated the proper function, if any, of battlefield nuclear weapons since they became part of our nuclear stockpile; and

(F) the enormous significance of the small nuclear artillery shell has remained obscure.

(2) There is hereby established a commission to be known as the Advisory Commission on Battlefield Nuclear Weapons (hereinafter in this subsection referred to as the "Commission").

(3) The Commission shall—

(A) examine—

(i) whether nuclear artillery shells remain appropriate and necessary for the implementation of the NATO's flexible response strategy, and whether modernization of nuclear artillery is consistent with efforts to reduce dependence on early use of nuclear weapons and raises the nuclear threshold;

(ii) the adequacy of measures to ensure constant control of battlefield nuclear weapons by civilian political authorities, including the ability of such authorities to maintain this control while battlefield nuclear weapons are in use;

(iii) whether the defense needs of the member nations of the NATO require the construction and deployment of two kinds of similar nuclear battelfield weapons, the 155-millimeter artillery-fired atomic projectile (W-82) and the 8-inch artillery-fired atomic projectiles (W-79);

(iv) whether modern conventional weapons could substitute for one or both kinds of battlefield nuclear artillery presently deployed with the NATO forces;

(v) the extent to which member nations of the NATO who are to deploy any new 155-millimeter artillery-fired atomic projectiles have officially agreed to deploy the shells, including a description of any steps remaining to be taken before entry by those allies into Programs of Cooperation with the United States for the deployment of the weapon; and

(vi) the purposes and uses proposed for battlefield nuclear artillery in theaters in the world other than the European theater;

(B) consult with experts representing diverse views on issues related to nuclear arms control, incluiding persons representing the public and private sectors; and

(C) submit the reports referred to in paragraph (11).

(3) Members shall be appointed to the Commission within 30 days after the date of the enactment of this Act. The Commission shall be composed of the following:

(A) Seven members appointed by the Speaker of the House of Representatives.

(B) Seven members appointed by the majority leader of the Senate.

Of the members appointed under subparagraphs (A) and (B), not more than three shall be officers or employees of the United States and not more than five shall be of the same political party.

(4) Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(5) The Commission shall appoint a chairman from among its members.

(6)(A) Members of the Commission who are not officers or employees of the United States shall receive compensation at the daily equivalent of the rate of pay payable for grade GS-14 of the General Schedule for each day while performing duties of the Commission.

(B) Members of the Commission who are officers or employees of the United States may not receive compensation for their service on the Commission but shall be reimbursed for reasonable expenses for travel related to the duties of the Commission for which they would not otherwise receive reimbursement or any other payment.

(7) The Commission shall appoint and fix the pay of a director and a staff of two persons to assist the Commission in carrying out its duties.

(8)(A) The Commission shall first meet within 15 days after the date on which members are first appointed to the Commission and shall meet thereafter at the call of the chairman or a majority of the members.

(B) Nine members of the Commission shall constitute a quorum for all purposes, except that a lesser number may hold meetings and hearings.

(9) The Commission may, for the purpose of carrying out this subsection, take such testimony and receive such evidence as the Commission considers appropriate.

(10) The Commission may secure directly from any department or agency of the United States any information necesary to enable it to carry out this subsection. Upon the request of the chairman, the head of any such department or agency shall furnish the information to the Commission.

(11) The Commission shall submit reports to the President and to the Congress not later than March 1, 1986, containing the findings, conclusions, and recommendations of the Commission with respect to the issues referred to in paragraph (3)(A). Any dissenting or supplemental views of members of the Commission shall also be included in the reports.

(12) There are hereby authorized to be appropriated for fiscal year 1986 such sums as may be required to carry out this subsection.

(13) The Commission shall cease to exist on September 30, 1986.

By Mr. GONZALEZ:

—In Title III, delete section 305 (page 34, line 6, through page 36, line 7), and number the remaining sections correspondingly.

By Mr. GROTBERG:

—At the end of Title X (page 200, after line 4) add the following new section:

SEC. 1050. AMERICAN STAGE EQUIPMENT FOR U.S. PATRIOTIC EVENTS.

"That it is the sense of the Congress that performing groups in the armed forces of the United States should use domestically manfuactured entertainment support items, such as pianos and organs, sound and lighting equipment, and other items essential for quality entertainment, at patriotic and ceremonial events in the Capitol Building, on the Capitol Grounds, and at all Federal buildings, unless there is no domestically manfuactured item of comparable quality and price."

By Mr. HOPKINS:

—At the end of title X (page 200, after line 4) add the following new section:

SEC. 1050. MANAGEMENT OF MILITARY RECORDS MAINTAINED BY THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

(a) FINDING CONCERNING MILITARY RECORDS.—The Congress finds that the National Archives and Records Administration has received a substantial number of military records and that, by reason of the manner in which the records are maintained, many of such records are not readily accessible to the public.

(b) ADVISORY COMMITTEE.—It is the sense of the Congress that the Archivist of the United States should appoint an advisory committee—

(1) to study the manner in which military records received by the National Archives and Records Administration are maintained; and

(2) to make recommendations to the Archivist on appropriate ways to manage and maintain such records to enhance public access to the records.

(c) REPORT.—Not later than March 31, 1986, the Archivist shall transmit to the Congress a report outlining a 5-year plan, a 10-year plan, and a 20-year plan for improv-

ing the management, maintenance, storage, and preservation of military records and for improving public access to such records. In preparing the report, the Archivist shall consider any recommendations received from any advisory committee appointed as recommended in subsection (b).

By Mr. HUTTO:

—Page 172, after line 20, insert the following new section:

SEC. 1016. TWO-YEAR EXTENSION OF PROHIBITION ON CONTRACTS FOR THE PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS.

(a) EXTENSION OF PROHIBITION.—Section 1221(a) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 691), is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1987".

(b) REPORT.—(1) The Secretary of Defense shall submit to Congress a written report containing—

(A) an assessment of the special needs of the Department of Defense with respect to firefighting and base security; and

(B) an assessment of how those needs are met by both Federal employees and contract personnel.

(2) The report shall be prepared in consultation with the Administrator of the United States Fire Administration of the Federal Emergency Management Agency and shall include the comments of the Administrator on the report.

(3) The report shall be submitted not later than March 1, 1986.

By Ms. KAPTUR:

—Page 176, after line 8, insert the following new section:

SEC. 1024. REPORT ON COMMON DEFENSE OBJECTIVES.

(a) IN GENERAL.—The Secretary of Defense shall submit to the Congress a report recommending methods by which Japan may be encouraged to increase its defense expenditures and thereby further the security interests of the United States by strengthening the common defense of the United States and Japan.

(b) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted before the expiration of the 90-day period following the date of the enactment of this Act.

—Page 176, after line 8, insert the following new section:

SEC. 1024. REPORT ON COMMON DEFENSE OBJECTIVES.

(a) IN GENERAL.—The Secretary of Defense shall submit to the Congress a report concerning ways Japan could increase its self-defense capabilities through defense expenditures and thereby further the security interests of Japan and the United States.

(b) SUBMISSIONS OF REPORT.—The report required by subsection (a) shall be submitted before the expiration of the 90-day period following the date of the enactment of this Act.

By Mr. McCOLLUM:

—Page 167, after line 10, add the following new section:

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS FOR TRANSPORTATION OF NONLETHAL ASSISTANCE TO AFGHAN REFUGEES.

There is hereby authorized to be appropriated to the Department of Defense for fiscal year 1986 the sum of $10,000,000 for transportation of nonlethal assistance to persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union, as authorized in title III.

—On page 200 after line 4 insert:

SEC. 1050. Title 10 of the United States Code is amended after Section 906 by inserting the following new section:

"906A. ART. 106A. ESPIONAGE.

"(a) Any person subject to this chapter who, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or other such punishment as a court-martial may direct, except that the sentence of death shall not be imposed unless the members further find that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.

"(b) Any person subject to this chapter who, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the Armed Forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or other such punishment as a court-martial may direct.

"(c) The death penalty shall be imposed under this section only after the members consider the presence or lack thereof of mitigating or aggravating factors contained in subsections (d) and (e).

"(d) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) the defendant was less than eighteen years of age at the time of the crime;

"(2) the defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge;

"(3) the defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge;

"(4) the defendant is punishable as a principal in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to the charge; or

"(5) Any other factors the President may set forth in the Manual for Courts-Martial.

"(e) AGGRAVATING FACTORS.—If the defendant is found guilty of or pleads guilty to an offense under this section the following aggravating factors shall be considered but are not exclusive:

"(1) the defendant has been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; or

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person; or

"(4) any other factors the President may set forth in the Manual for Courts-Martial."

By Mr. MARKEY:

—Add the following new section at the end of title X (page 200, after line 4):

SEC. 1050. RESTRICTION ON THE TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS.

(a) IN GENERAL.—None of the funds appropriated pursuant to an authorization provided in this or any other Act may be obligated or expended for any test of, or experiment involving, any component, subcomponent, or adjunct of an anti-ballistic missile system, or prototype thereof, if such test or experiment includes an intercept of a satellite, an anti-satellite weapon, or an orbital target simulating an anti-satellite weapon.

(b) EXCEPTION.—The prohibition of subsection (a) shall no longer apply if the President certifies to the Congress that the Soviet Union has conducted, after the date of enactment of this Act, a test of or an experiment involving a component, subcomponent, or adjunct of an anti-ballistic missile system, or prototype thereof, against a satellite, an anti-satellite weapon, or an orbital target simulating an anti-satellite weapon.

By Mr. MORRISON of Connecticut:

—Page 200, after line 4, insert the following new title:

TITLE XI—CEILING ON APPROPRIATIONS

SEC. 1101. CEILING ON AGGREGATE FISCAL YEAR 1986 APPROPRIATIONS AT FISCAL YEAR 1985 LEVEL.

Notwithstanding the specific authorizations of appropriations provided in this Act for individual appropriation accounts, the aggregate amount appropriated for fiscal year 1986 pursuant to all such authorizations may not exceed the aggregate amounts appropriated for such accounts in fiscal year 1985.

—Page 200, after line 4, add the following new section:

SEC. 1050. LINKAGE OF MILITARY TO CIVIL SERVICE PAY ADJUSTMENT.

(a) APPLICATION OF SECTION 601(b).—Section 601(b) of this Act shall apply in accordance with this section.

(b) EFFECTIVE DATE.—If an adjustment is made in the rates of basic pay under the General Schedule of compensation for Federal employees and such adjustment is to become effective during fiscal year 1986 on a day other than the day specified in subsection (b) of section 601 of this Act, the adjustment under such subsection (b) in compensation for members of the uniformed services shall become effective on the first day of the first pay period that begins on or after the effective date of the adjustment in the rates of basic pay under the General Schedule.

(c) PERCENTAGE ADJUSTMENT.—If an adjustment in the rates of basic pay under the General Schedule of compensation for Fed-

eral employees takes effect during fiscal year 1986 and such adjustment provides for a different overall percentage change in rates of basic pay than the percentage specified in subsection (b) of section 601 of this Act, the adjustment under such subsection (b) in compensation for members of the uniformed services shall be equal to the overall percentage change in rates of basic pay under the General Schedule.

(d) CIRCUMSTANCES FOR MAINTAINING CURRENT RATES OF PAY.—If an adjustment in the rates of basic pay under the General Schedule of compensation for Federal employees does not take effect during fiscal year 1986, an adjustment* under section 601(b) of this Act in compensation for members of the uniformed services shall not take effect.

By Mr. YOUNG of Florida:

On page 200, after line 4, insert the following new section:

SEC. 1050. LIMITED COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) The Secretary of Defense is authorized and directed to institute a program of counterintelligence polygraph examinations for military, civilian and contractor personnel of the Department of Defense, military departments, and the armed forces whose duties involve access to classified information.

(b) The program instituted pursuant to subsection (a) shall provide that, in the case of such individuals whose duties involve access to classified information within special access programs established pursuant to subsection 4.2(a) of Executive Order 12356, a counterintelligence polygraph examination shall be required prior to granting access to such information and aperiodically thereafter at random while such individuals have access to such information.

(c) In the case of individuals whose duties involve access to classified information other than that information covered in subsection (b) of this section, a counterintelligence polygraph examination may be required prior to granting access to such information and aperiodically thereafter at ramdom while such individuals have access to such information.

(d) A counterintelligence polygraph examination conducted pursuant to this section shall be limited to technical questions necessary to the polygraph technique and questions directly related to espionage, sabotage, terrorism and unauthorized disclosures of classified information.

(e) The authority of the Secretary of Defense under this section to provide for the use of polygraph examinations shall be in addition to any other authority the Secretary possesses on the date of enactment of this act to provide for such examinations under applicable laws and regulations.